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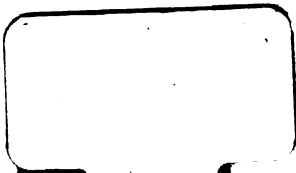


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REPORTS

OF THE

cf

Board of Public Utility Commissioners

OF THE

STATE OF NEW JERSEY

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VOLUME IX.

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**No. 878.**

**IN THE MATTER OF THE APPLICATION OF THE ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF THE ISSUANCE OF \$46,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS FIRST AND REFUNDING MORTGAGE FIVE PER CENT. SINKING FUND GOLD BONDS.**

Issuance of \$46,000 first and refunding mortgage five per cent. bonds is approved with the proviso that the same shall not be sold or otherwise disposed of without the approval of the Board.

*J. P. Vandervoort*, for the Company.

This is an application by Atlantic City Electric Company for the approval of the Board of the issuance of \$46,000 in aggregate principal amount of its first and refunding mortgage five per cent. sinking fund gold bonds, to be used for the purpose of retiring a like amount of the bonds of the New Jersey Hot Water Heating Company.

The petitioner, Atlantic City Electric Company, was formed by the consolidation of the Atlantic City Electric Company, Atlantic City Electric Light and Power Company, The Electric Light Company of Atlantic City, and New Jersey Hot Water Heating Company.

Under the terms of a first and refunding mortgage made by the Atlantic City Electric Company to Girard Trust Company, trustee, under date of March 2d, 1908, for \$5,000,000, Atlantic City Electric Company reserved bonds of the aggregate principal amount of \$250,000 for the purpose, among other things, of retiring the first mortgage five per cent. gold bonds of New Jersey Hot Water Heating Company, dated July 2d, 1906, maturing July 2d, 1936, and secured by a mortgage or deed of trust dated July 2d, 1906, from said New Jersey Hot Water Heating Company to Marine Trust Company, trustee.

It is desired to issue \$46,000 of the Atlantic City Electric Company bonds under the mortgage of March 2d, 1908, for the purpose of retiring a like amount of the bonds of the New Jersey Hot Water Heating Company. The applicant having already acquired the

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Ocean City Gas Light Company—Increase in Rates.

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\$46,000 of New Jersey Hot Water Heating Company, the newly issued bonds of the Atlantic City Electric Company will then become the property of the company.

There seems to be no objection to this being done and the Board will grant its approval, with the proviso, however, that the bonds so issued shall not be sold or otherwise disposed of without the express permission of the Board.

Dated March 31st, 1921.

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No. 879.

IN THE MATTER OF THE APPLICATION OF THE CITY GAS LIGHT  
COMPANY FOR INCREASE IN RATES.

1. Application is made by a gas company for an increase of 18 cents per thousand cubic feet in its rate for gas.

2. Giving due consideration to all the conditions the Board is of the opinion that the increase petitioned for would not be unlawful or opposed to the welfare of the community served or the reasonable requirements of the company.

*L. C. Ritchie*, for the Petitioner.

*A. C. Boswell* and *Joseph G. Champion*, for the City of Ocean City.

*R. H. Nulty*, for the Ocean City Chamber of Commerce.

The City Gas Light Company, supplying gas in the City of Ocean City, submitted under date of March 7th, 1921, an application for an increase of 18 cents per thousand cubic feet over its existing rate of \$1.90 per thousand cubic feet for gas sold. The petitioner asserts that the increased rate is applied for because demands have been made by civic organizations and city officials for improvements in gas service.

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Ocean City Gas Light Company—Increase in Rates.

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“which demands have arisen through the reserve plant and pipe lines capacities having been exceeded during the summer of 1920 through the abnormal increase in gas sales during the last two years. \* \* \* That the cost of necessary improvements will amount to approximately \$72,695.”

It states that it is unable to finance the improvements demanded of it from current rates

“But believes that the authorization of the increased rate prayed for will enable it to secure fresh capital to make the necessary improvements.”

The City of Ocean City filed an answer to the petition stating the following:

“That it is willing to allow an increase of rate, not to exceed 18 cents per 1,000 cubic feet of gas over and above the rate now fixed, and the surcharge now fixed by your Board, provided, however, that the rate become effective May 1st, 1921, and to be considered only a temporary rate with the privilege upon the part of the municipality to apply to the Utility Board at any time for a decrease in the rate and surcharge.”

Upon the application, hearing has been held of which due notice was given. No objection has been made to the increase.

Giving due consideration to all the conditions the Board is of the opinion that the increase petitioned for would not be unlawful or opposed to the welfare of the community served or the reasonable requirements of the company.

The Board will permit the increase to become effective from and after May 1st, 1921; the meter service charge now in effect to be continued. This is with the understanding that the rate schedule of the company is subject to challenge as to its reasonableness and that the Board reserves the right to alter the schedule in the future should conditions so change as to make such alterations just and reasonable.

Dated April 7th, 1921.

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Millville Traction Company—Proposed Abandonment.

---

**No. 880.****IN THE MATTER OF PROPOSED ABANDONMENT BY MILLVILLE TRACTION COMPANY OF ITS FRANCHISE ON SOUTH SECOND STREET, MILLVILLE.**

1. Application is made by a street railway company to abandon part of its line.

2. In view of the inability of the company to earn anything like a fair return upon the property involved; of the request of the State Highway Commission that the track be removed so it may improve the street as part of the State Highway System, and the request of the City Commission that the Board consent to the removal, the Board holds that the advantages accruing to the community as a whole from the removal of the tracks and abandonment of the franchise outweigh the objections of residents opposing the removal, and that the consent should be granted.

*W. H. Bacon*, for the Petitioner.

*J. H. Branan, Chas. M. Shipley and James S. Steelman*, for Citizens Committee of Millville.

This is an application for the abandonment of a track on South Second Street, in the City of Millville, eighty-three hundredths of a mile in length. In July, 1919, the city gave notice of its intention to repair South Second Street and notified the company that it should repave that portion of the street which it was required by law to keep in condition.

The company filed an application with the Board to be permitted to abandon its franchise in the street and to remove its tracks therefrom. This application was not acted upon by the preceding Board and subsequently the State Highway Commission adopted plans for the improvement of the street, including the repavement of the same. The State Highway Commission Engineers, in conference with the representatives of the Traction Company, notified the company to remove its tracks from the street so that the work to be done by the Highway Commission could be performed.

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Millville Traction Company—Proposed Abandonment.

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The municipality by a resolution filed with the Board authorized the removal of its tracks in South Second Street by the company, and the company thereupon filed a new application with the Board asking the consent of the Board to the abandonment of its franchise in the street and the removal of its tracks.

The necessity for the improvement of the street does not seem to be disputed. It is advantageous apparently to the municipality to have the State Highway Commission perform this work. The entire City Commission, consisting of five members, have personally signed the request to this Board to consent to the proposed abandonment.

It appears that the section of the track in question is at the end of a line. It further appears that the revenue from it amounts to about 50 cents an hour and that it is not in any sense yielding a fair return to the company.

There was some opposition to the application from some residents along the street. The portion of the line, as stated, is short, being but eight-tenths of a mile. An official of the company says that when the street is improved several jitney owners intend to operate on it.

In view (a) of the inability of the company to earn anything like a fair return upon the property involved; (b) of the request to the company of the State Highway Commission that the track be removed so it may improve the street in question as a part of the State Highway System, and (c) the request of the City Commission of Millville that the Board consent to the removal of the tracks, we are of the opinion that the advantages accruing to the community as a whole from the removal of the tracks and the abandonment of the franchise in question outweigh the objections of the residents opposing the removal and will accordingly grant the consent requested.

Dated May 10th, 1921.

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Bridgeton and Millville Traction Company—Removal of Tracks.

---

**No. 881.****IN THE MATTER OF THE ABANDONMENT OF PORTION OF THE LINE  
AND REMOVAL OF TRACKS OF THE BRIDGETON AND MILLVILLE  
TRACTION COMPANY.**

1. Consent is given to a street railway company to abandon service and remove tracks partly on a private right of way and partly on a public highway where the track runs to an amusement park no longer used; the consent to the removal of the track from the public highway to be given upon the municipality consenting thereto.

2. With respect to another portion of the track running for a distance of ten miles between different municipalities the Board, notwithstanding the company's assertion that the portion of the line in question is not profitable, will not grant the application for removal at least until the attitude of the municipalities is ascertained and evidence thereof is submitted to the Board.

3. Mere failure to earn a proper return on a line which is part of a system is not sufficient ground for its abandonment.

*C. L. S. Tingley and H. B. Gill, for the Petitioner.*

*Francis A. Stanger, Jr., and H. H. Fithian, for Bridgeton Chamber of Commerce.*

*C. W. Hand, for Township of Commercial.*

The applicant requests the right to abandon (1) a portion of its tracks in the City of Bridgeton, running from the crossing of the Central Railroad tracks on the Bridgeton and Deerfield Turnpike and private right of way to Tumbling Down Park. There was testimony that there is no longer traffic between the points in question as the park, which had been established by the Traction Company, is no longer in use. The crossing over the Central Railroad tracks is in bad condition and the portion of the trolley line to be abandoned is on a private right of way for more than half the distance. The length of the stretch of track proposed to be abandoned is about two blocks.

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**Bridgeton and Millville Traction Company—Removal of Tracks.**

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Consent will be given to the abandonment and removal of the tracks on the private right of way of the company. As to the portion of the tracks on the Bridgeton and Deerfield Turnpike, consent will be given to the removal thereof if the municipality gives its consent thereto.

(2) The company also requested permission to abandon its tracks beginning at Commerce and Church Streets and running along Church Street to Irving Avenue and along Irving Avenue to the Central Railroad of New Jersey's tracks.

The company now requests leave to withdraw its application and it will be permitted to do so.

(3) The company also requests the Board's permission to remove about ten miles of track running between Newport and Port Norris and Bivalve. It presented evidence showing that the section of the line in question is not self supporting. This section represents about 26.8 per cent. of the revenue tracks of the company. It is the only street railway communication between Bivalve, Port Norris, Dividing Creek and Newport and is part of the line which connects Bridgeton, Newport, Port Norris and Bivalve.

Commercial Township, of which Port Norris is the principal center of population, contains twenty-two hundred inhabitants; Downe Township, including Dividing Creek and Newport, thirteen hundred and twenty-two; Lawrence Township, which is contiguous to Newport, contains fifteen hundred and forty-nine inhabitants; Fairfield Township, including Fairton, sixteen hundred and twenty-nine inhabitants; the City of Bridgeton fourteen thousand three hundred and twenty-two.

No application has been made to any of the townships concerned in the proposed abandonment and there is no evidence that the municipalities had in anywise consented thereto. This Board, notwithstanding the company's assertion that the portion of the line in question is not profitable, will not grant the application requested, at least until the attitude of the municipalities in regard thereto is ascertained and evidence thereof presented to the Board. Mere failure to earn a proper return on a line which is part of a system is not sufficient ground for its abandonment.

The application in this respect, therefore, will be denied.

Dated May 10th, 1921.

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Wildwood Gas Company—In re Service and Rates.

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## ORDER.

Application having been made by the Bridgeton and Millville Traction Company for permission to discontinue service and remove the tracks from certain portions of its line, the application having been duly heard and the Board having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof,

The Board of Public Utility Commissioners, HEREBY ORDERS approved the removal by the said company of its tracks from its private right of way upon the line from the crossing of the Central Railroad tracks on the Bridgeton and Deerfield Turnpike to Tumbling Down Park. In all other respects the petition is HEREBY ORDERED DISMISSED.

This Order shall become effective June 4th, 1921.

Dated May 10th, 1921.

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No. 882.

## WILDWOOD GAS COMPANY—IN RE SERVICE AND IN RE RATES

Following hearing upon the questions of the adequacy of the service and the rates of a gas company, the following was held:

1. That the plant capacity of the applicant should be increased by the addition of boiler capacity and connections enabling it to generate sufficient gas to supply its customers for the ensuing year.

2. That it should reinforce the mains now known to be defective, especially on Roberts Avenue, where a two-inch main is now installed. This should be replaced by a four-inch main and it should promptly meter all applicants for service along its existing mains.

3. The improvements set forth in (1) and (2) should be made on or before July 1st.

4. That in order to meet its necessary operating expenses and return on capital installed or to be installed under provisions of paragraph (1) and (2) hereinabove, the company will need an increase in rates and may file a new schedule of rates effective upon the completion and certification of the work set forth above, as follows:

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Wildwood Gas Company—In re Service and Rates.

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(a) For domestic customers gas used shall be charged at the rate of \$2.50 net per thousand cubic feet (without the addition of a service charge).

(b) Street lamp service shall be continued under present rates to December 31st, 1921. Prior to the expiration of the existing contract the company may, if facts warrant, ask for a revision of the street lighting schedule now in force.

*Norman Grey*, for Wildwood Gas Company.

*William C. Hendee*, for City of Wildwood.

*Harry Nickerson*, for Wildwood Crest.

*W. Courtright Smith*, for North Wildwood and Wildwood Crest.

IN RE SERVICE.

A general inspection of the plant of the Wildwood Gas Company was made by the Board's inspector on October 8th, 1920, and a report of the results of the inspection made under date of October 15th, 1920. The inspector recommended that in order to render adequate service the company should install a new water gas set having a capacity of not less than 750,000 cubic feet per day.

After notice, a hearing on this report was held on May 2d, 1921. Counsel for the company agreed with the recommendations of the Board's inspector, but claimed that the company had not been able to finance the necessary expenditures required to make the installation. As an alternative plan for the year 1921, counsel for the company, after consulting his manager, suggested that the capacity of the plant could be increased by installing a new boiler furnishing a more adequate supply of steam to the present generating capacity which, thus reinforced, would increase its capacity sufficiently to take care of the needs of its customers for the year 1921. During the course of the hearing complaint was made of the poor service on Roberts Avenue due to the fact that seventy-seven customers on one block were served from a two-inch main. Representatives of the company agreed that this main ought to be reinforced by a larger sized main. Testimony showed that three or four hundred new houses were being constructed in the territory served by the company and

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Wildwood Gas Company—In re Service and Rates.

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would want gas service this season. This will require that service pipes and meters be installed preparatory to rendering the gas service. The company's counsel estimated that the amount required to take care of the increase in boiler capacity, requisite reinforcement of mains and to supply service pipes and meters to the prospective customers would necessitate an outlay of approximately \$15,000 and that in 1922 the generator recommended by the Board's inspector could be installed for approximately \$15,000 in that year. He further stated that if an adequate rate were promptly assured the company the necessary expenditures could be financed and the work completed prior to July 1st.

## IN RE RATES.

The presiding commissioner then indicated that owing to the necessity of immediate action on the question of rates it appeared advisable to take testimony as to what rate would be just and adequate, and asked the views of the representatives of the various municipalities served on the question whether or not testimony should be taken as to operating costs preparatory to ascertaining what rate would be reasonable under the circumstances. The consensus of opinion as expressed by the representatives of the communities was that, provided adequate service is rendered by the company, they would be willing the investigation should be extended to taking testimony in regard to operating costs and conditions and that the Board should fix a fair rate covering the necessary costs for extensions of facilities and for operating costs, taxes and return on capital. Answering an inquiry of the presiding commissioner, Mr. Nickerson summed up the matter in the following language:

"I think we are all satisfied to have the gas company have a satisfactory or necessary increase in their rate but that, of course, I suppose is up to the Commission to determine what that rate will be."

It was accordingly agreed that the company should present its affirmative proofs and the case be decided on the evidence submitted.

In order that the matter might be formally before the Board, the company has, with the permission of the Board, in the interval pre-

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Wildwood Gas Company—In re Service and Rates.

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sented its formal petition in accordance with Conference Ruling Number Fifteen.

The petition alleges:

That the applicant is operating under a rate established by the Board fixing the price of gas to its consumers at \$2.10 per thousand cubic feet, plus a readiness to serve charge of 25 cents per month for 3 and 5-light meters payable by yearly consumers, or in the case of customers using the company's service in the summer months only, plus a readiness to serve charge of \$3.00 per annum, collectible in advance. The petitioner's rate for street lighting is \$30.00 per lamp per annum.

That the company proposes, with the permission of the Board first obtained, to establish the following rate for gas effective the 20th day of May, 1921:

\$2.50 per 1,000 cubic feet of gas.

\$42.00 per year for street lamps.

That the contract rate for the 145 street lamps served at \$30 per annum obtains for the year 1921 and no increase can be collected from the city on account of the budget for 1920 providing only \$30 per lamp (for 1921).

The question of adequate rates will now be discussed.

1. VALUE OF PROPERTY USED AND USEFUL NOW INSTALLED OR TO BE  
INSTALLED PRIOR TO JULY 1ST.

On May 28th, 1918, the Board issued its report "In the Matter of the Application of the Wildwood Gas Company for Increased Rates." In that proceeding the company furnished the Board information relative to the value of its property and the Board determined that the value of the property as of June 30th, 1917, was \$336,534, including therein \$12,500 for working capital. The value of the fixed capital, omitting working capital, was determined to be \$324,024. Net additions to December 31st, 1920, aggregate \$17,686, making a total of \$341,710 for fixed capital installed as of December 31st, 1920. Adding five per cent. for working capital, aggregating \$17,290, makes a total value of \$359,000 prior to the installation of the contemplated additions.

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Wildwood Gas Company—In re Service and Rates.

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The company in its petition and accompanying statements asks for the allowance of interest on its funded and floating debt and for eight per cent. on \$15,000, the proceeds of which are to be used to finance the improvements hereinabove recited. The interest as set forth in the company's exhibit totals \$22,140. To test the reasonableness of this, the Board takes a total of \$22,740, this being six per cent. on the \$359,000 of capital now installed, and eight per cent. on the \$15,000 future capital to be immediately provided. It will be assumed, therefore, that for the purposes of return on capital, \$22,740 will be taken in this proceeding.

II. OPERATING EXPENSES AND TAXES (OTHER THAN THOSE  
BASED ON GROSS REVENUE).

The testimony offered on behalf of the company indicated that, with the exception of the cost of fuel and oil, operating costs for the year 1921 would approximate those for the year 1920 (set forth in the annual report of the company to the Board). To make a competent estimate it will be necessary (1) to approximate the gas to be sold and the gas to be made and (2) to estimate the cost of coal and oil necessary to produce such gas.

ESTIMATED OUTPUT FOR THE YEAR ENDING JUNE 30TH, 1922.

Metered revenue gas.....	43,740	M. cubic feet.
Gas for 145 street lights (burning 365 days, averaging 13 hours and 5 cubic feet per hour), say 24 M. cubic feet each .....	3,480	" " "
<b>Total Revenue Gas.....</b>	<b>47,220</b>	<b>" " "</b>
Gas used by the company.....	353	" " "
<b>Gas to be accounted for.....</b>	<b>47,573</b>	<b>" " "</b>
Unaccounted for gas taken at 15% of gas made.....	8,427	" " "
<b>Total to be made, in round figures.....</b>	<b>56,000</b>	<b>M. cubic feet.</b>

## Wildwood Gas Company—In re Service and Rates.

## COST OF FUEL AND OIL.

Taking the price of \$7.14 per short ton as testified to in the proceedings, it will require the expenditure of \$5,340 for boiler fuel; assuming the cost of anthracite coal to be \$13 per long ton, it will require \$16,250 for generator fuel; and assuming the cost of gas oil to be 9.75 cents per gallon, the cost for gas oil will be \$17,472. The aggregate of these three amounts is \$39,062 for the ensuing year.

A statement of the operating expenses and taxes other than those based upon gross revenue follows in Table I.

TABLE I.

OPERATING EXPENSES FOR YEAR ENDING JUNE 1ST, 1922, BASED ON CURRENT PRICES FOR FUEL AND OIL, OTHER EXPENSES TAKEN TO BE EQUAL TO THOSE OF 1920.

Boiler Fuel .....	\$5,340
Generator Fuel .....	16,250
Gas Oil .....	17,472
<b>Total Fuel and Oil.....</b>	<b>\$39,062</b>
Other Production Expense.....	10,585
<b>Total Production Expense.....</b>	<b>\$49,647</b>
Transmission and Distribution.....	8,563
Municipal Street Lighting.....	2,376
Commercial Expenses .....	6,332
New Business .....	180
General and Miscellaneous (excluding Amortization) .....	3,340
<b>Subtotal .....</b>	<b>\$70,447</b>
Amortization .....	8,000
<b>Subtotal .....</b>	<b>\$78,447</b>
Taxes other than those based on gross revenue..	1,100 (Estimated)
Uncollectible Bills .....	453
<b>Total Revenue Deductions omitting taxes based on gross revenue.....</b>	<b>\$80,000</b>

Table I indicates that the total operating expenses on the basis assumed will be \$80,000.

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Wildwood Gas Company—In re Service and Rates.

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## III. REVENUE REQUIRED TO NET \$22,740 FOR RETURN ON PROPERTY

In Table II will be brought together the return on the value of property, \$22,740, and the operating expenses of \$80,000 to which will be added an amount necessary to provide for the franchise and gross receipts taxes, at the rates of five per cent. and 3.44 per cent. respectively of total gross revenue. These figures are shown in Table II.

TABLE II.

REVENUE REQUIRED TO EARN \$22,740 ON PRESENT CAPITAL OF \$350,000 AND ON CONTEMPLATED ADDITIONS OF \$15,000.

Capital after contemplated improvements.....	\$374,000
Interest thereon <sup>1</sup> .....	22,740
Operating expenses, omitting taxes based on gross receipts .....	80,000
Subtotal .....	\$102,740
Franchise and gross receipts taxes.....	9,470
Total revenue required .....	\$112,210
Provided by street lights.....	4,350
Required from metered customers.....	\$107,860
Estimated sales of gas, M. cubic feet.....	43,740
Indicated rate per M. cubic feet.....	\$2.47
Taken as .....	\$2.50

<sup>1</sup> 6% on \$350,000; 8% on \$15,000.

Allowing \$4,350 as the revenue from the street lights, this leaves the figure of \$107,860 to be provided by the sales of 43,740 M. cubic feet of gas. This indicates a rate of \$2.47 per thousand cubic feet (without any service charge). This may be taken at the round figure of \$2.50 per thousand cubic feet without the service charge.

The company claims that it will face increased expenses in the operation and maintenance of street lights but that the street lighting schedule cannot be adjusted until the end of the year as there is an outstanding contract with the municipality which will not terminate until the end of the year. This report will assume, therefore, that

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Wildwood Gas Company—In re Service and Rates.

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to December 31st, 1921, the company will collect for each street light at the rate of \$30 per annum. No adjustment of rates for street lights will be calculated herein but prior to the expiration of the year the company may, if facts warrant, submit proofs as to what will be the cost of service of street lamps for the year beginning January 1, 1922. The rates herein derived are conditional upon the company promptly increasing its facilities to such an extent as to be able to furnish safe, proper and adequate service. The representatives of the company claim that this can be done by July 1st if they be assured a rate of \$2.50 for domestic consumption with reasonable promptness. The company is not to put into effect the schedule of rates herein derived until after it shall have notified the Board that the improvements and reinforcements hereinabove alluded to have actually been made and the Board's inspector shall have certified to the Board that the contemplated extensions and improvements have actually been made by the company.

#### IV. CONCLUSIONS.

The Board therefore finds and determines:

(1) That the plant capacity of the applicant should be increased by the addition of boiler capacity and connections enabling it to generate sufficient gas to supply its customers for the ensuing year.

(2) That it should reinforce the mains now known to be defective, especially on Roberts Avenue where a two-inch main is now installed. This should be replaced by a four-inch main, and it should promptly meter all applicants for service along its existing mains.

(3) The improvements set forth in (1) and (2) should be made on or before July 1st.

(4) That in order to meet its necessary operating expenses and return on capital installed or to be installed under provisions of paragraphs (1) and (2) hereinabove, the company will need an increase in rates and may file a new schedule of rates effective upon the completion and certification of the work set forth above, as follows:

(a) For domestic customers gas used shall be charged at the rate of \$2.50 net per thousand cubic feet (without the addition of a service charge).

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Ocean County Gas Company—Increase in Rates.

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(b) Street lamp service shall be continued under present rates to December 31st, 1921. Prior to the expiration of the existing contract the company may, if facts warrant, ask for a revision of the street lighting schedule now in force.

Dated May 14th, 1921.

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**No. 883.****IN THE MATTER OF THE APPLICATION OF THE OCEAN COUNTY GAS  
COMPANY FOR FURTHER INCREASE IN RATES.**

1. Of the total of \$182,150 fixed as the value of the property of a gas company for a rate base it is held that \$13,315 should be assigned to street lighting service, \$135,437 to the service of domestic consumers and \$33,398 to the service of another gas company, which sells gas bought in bulk from the company under consideration.

2. To obtain a return of seven per cent. on the rate base and meet operating expenses and taxes a total revenue for the year of \$63,461 will be required. Of this \$4,367 it is estimated should come from a service charge to metered customers, \$46,308 from sales of gas to such customers, \$4,874 from street lights and \$9,892 from sales of gas to the other company.

3. A schedule of rates estimated to provide the above mentioned amounts is fixed.

*W. H. Jayne*, for the Petitioner.

*W. H. Jeffrey*, for the Township of Dover and the Boroughs of Island Heights, Beachwood and Ocean Gate.

*William E. Blackman*, for Tuckerton.

The petition in this case was filed November 10th, 1920, and alleges, among other things, that the present schedule of rates is as follows:

Rate \$1.70 per 1,000 cu. ft.  
Less discount of .05c. per 1,000 cu. ft. for prompt payment 10 days  
from first of each month.  
Municipal street lights \$30.00 and \$35.00 each per lamp per annum  
according to time schedule.  
Monthly service charge as approved by the report of the Commission dated May 23d, 1918.

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Ocean County Gas Company Increase in Rates.

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That it does not enjoy the advantages held by many similar companies under the Board's jurisdiction by reason of its widely distributed territory, it being required to maintain approximately 67½ miles of mains, mostly high pressure, and has approximately but 23 meters per mile. By reason of this large main mileage, the cost of distribution and loss by condensation and leakage exceeds that of the ordinary company which serves a congested district and especially low pressure systems.

That the principal part of the company's business is obtained from summer residents in the territory served by it.

That the consumption of gas in August is more than twice the consumption in the winter and spring months.

That the company's ratio of operating expenses to revenue for the year ending September 30th, 1918, was 91 per cent., September 30th, 1919, 88 per cent., September 30th, 1920, 98 per cent., and for the nine months ending September 30th, 1920, 101 per cent. These figures do not include a charge for return on capital.

That from November 1st, 1919, to October 1st, 1920, the petitioner lost \$11,949.63 as compared with the loss for the same eleven months of the preceding year of \$6,228.96.

That the petitioner has never paid any dividends on its \$200,000 par value of stock.

That the petitioner asks that the Board grant it immediate relief and permit it to make a new charge for gas consumed to supersede the charges hereinbefore set forth on the following basis:

For all gas consumers (domestic purposes)—

\$2.75 per 1,000 cu. ft. less .05c. per 1,000 discount and a charge of \$2.20 per 1,000 cu. ft. for all gas sold to Tuckerton Gas Company.

For gas consumed by municipal street lights—

\$45.00 per lamp per year—sunset to midnight.

\$50.00 per lamp per year—sunset to sunrise.

Plus the service charge as approved May 23d, 1918.

After notice in newspapers the case was heard on November 30th and December 7th, 1920, and on the latter date taken into conference, counsel having stipulated in the meantime that no increase of rates should become effective until authorized by the Board.

No decision having been handed down by the former members of this Board, the matter was set down after notice for further hearing

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Ocean County Gas Company—Increase in Rates.

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on April 18th, 1921, at which time it was stipulated that the record theretofore taken should be considered by the present members of the Board.

The rates of this company have been under review several times within the last three years as may be seen by reference to the Board's reports dated May 23d, 1918 (Vol. VI, p. 139), and December 3d, 1918 (Vol. VI, p. 597).

The allocation of return on capital and of operating expenses will be made substantially in the same manner as set forth in the reports just cited.

I. ESTIMATED SALES OF GAS.

In the company's petition the estimate of sales of gas was based upon the results of the year ending September 30th, 1920. The annual report having in the meantime been filed and covering a period three months later, will be used in the following estimate. It is assumed that the company will sell in the ensuing year the same amount of gas to its consumers as for the year 1920. This indicates the following consumption:

Street lights .....	2,095 M. cubic feet
Domestic consumers (or commercial)....	21,200 M. cubic feet
Gas sold to Tuckerton Gas Company'....	5,149 M. cubic feet
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Total sales for 1921.....	28,444 M. cubic feet
Add for company's use.....	326 M. cubic feet
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Total gas accounted for.....	28,770 M. cubic feet

These amounts are based on readings of meters and an estimate for street lights. The company's annual report for 1920 (p. 34, line 11) indicates a use by the company of 805,700 cubic feet of gas. For several years prior to the last two years the company's use of gas never equalled 350,000 cubic feet. It would appear wasteful on the part of the company to so largely increase its own use of gas when that product is now so costly. The Board will assume that the company will not use 805,700 cubic feet, but not exceeding 326,000 cubic feet of gas in the ensuing year.

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 Ocean County Gas Company—Increase in Rates.
 

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## II. CAPITAL USED AND USEFUL.

The capital used and useful was ascertained by adding to the total set forth in the Board's report of May 23d, 1918, the net additions from that time to December 31st, 1920, as revealed by the annual reports of the company and by the petitioner's Exhibit 1 attached to the petition. Table I will show the value of the property as of December 31st, 1920, duly classified according to character of service. The allocation to classes of service is made on the basis of use.

TABLE I.

VALUE OF PROPERTY AS OF DECEMBER 31ST, 1920, ALLOCATED TO CLASSES OF SERVICE ON BASIS OF USE.

	Total Rate Base	Allocated to		
		Street Lights	Metered Service	Tuckerton Gas Co.
Plant .....	\$39,657	\$2,923	\$29,556	\$7,178
Transmission and distribution...	85,000	6,500	54,500	24,000
Meters and services.....	41,776	.....	41,776	.....
Street lighting fixtures.....	2,912	2,912	.....	.....
General .....	6,613	480	4,913	1,220
Fixed capital .....	\$175,967	\$12,815	\$130,754	\$32,398
Working capital .....	6,183	500	4,683	1,000
Total value .....	\$182,150	\$13,315	\$135,437	\$33,398
7% return on value above shown.	\$12,750	\$1,275	\$9,137	\$2,338

Table I indicates that, of the total value of \$182,150, \$13,315 should be assigned to the service of street lights, \$135,437 to the service of domestic consumers and \$33,398 to the service of the Tuckerton Gas Company. Allowing 7 per cent. return on these amounts of capital, would indicate a total annual return of \$12,750 for the company, apportioned \$1,275 to street lights, \$9,137 to meters and \$2,338 to the Tuckerton Gas Company.

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 Ocean County Gas Company—Increase in Rates.
 

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## III. OPERATING EXPENSES AND TAXES.

(A) *Use of Fuel and Oil.* In the interval between the first hearings and the hearing of April 19th, the costs of fuel and oil receded considerably. Exhibit P-1 of April 19th, 1920, indicates the cost of bituminous coal delivered at the company's plant to be \$8.8539 per gross ton, the cost of egg coal delivered to the plant, \$12.799 per gross ton, the cost of gas oil 7.317 cents per gallon delivered. The quantity per thousand cubic feet required to deliver one thousand cubic feet of gas as indicated by the company's annual report for the year 1920 is 74.3 pounds of bituminous coal, 54.8 pounds of egg coal and 3.79 gallons of gas oil per thousand cubic feet. The uses of the quantities of egg coal and water gas oil appear to be proper, but the use of bituminous coal appears to be excessive. Prior to 1918 the company's use of bituminous coal was less than 50 pounds per thousand cubic feet accounted for. The increase of 50 per cent. above that amount does not appear to be warranted, even though somewhat greater pressures were carried in the transmission line. The Board will therefore assume a use of 63.5 pounds per thousand cubic feet of gas accounted for in the following computation. The cost of fuel and oil for the ensuing year is computed to be as follows:

Bituminous Coal—		
28,770 M. cubic feet at 63.5+ equals	1,826,895 lbs.	
1,826,895+ is 815.6 G. T. at \$8.8539.....		\$7.221
Anthracite Coal—		
28,770 M. cubic feet at 54.8+ equals	1,576,596 lbs.	
1,576,596+ is 704 G. T. at \$12.80.....		8.941
Gas Oil—		
28,770 M. cubic feet at 3.3 gals. is as	95,000.	
95,000 gals. at 7.317c .....		6.951
		<hr/>
		\$23,113

(B) *Other Expenses for Labor and Materials.* These will be taken as substantially equalling the same items for the year 1920, as shown in the company's annual report for that year. Real estate taxes are taken to equal those for the year 1920 and do not constitute a large percentage of the total taxes to be paid. The franchise taxes on the

## Ocean County Gas Company—Increase in Rates.

gross revenues are taken at 5 per cent. and the gross receipts tax taken at 3.44 per cent. In order to provide this amount it is necessary to add to all other costs approximately 9.22 per cent. to provide for the collection of 8.44 per cent. on the gross receipts of the company. The total operating expenses and land taxes are shown in Table II, together with the allocation of the same to street lights, metered customers and the Tuckerton Gas Company.

TABLE II.

OPERATING EXPENSES AND REAL ESTATE TAXES FOR ENSUING YEAR BASED ON FUEL AND OIL PRICES NOW CURRENT AND OTHER EXPENSES EQUAL TO 1920 COSTS, ALLOCATED TO CLASSES OF SERVICE.

	Total	Street Lights	Metered Customers	Tuckerton Gas Co.
I. Total Production Expenses ....	\$34,200	\$1,703	\$27,171	\$5,386
II. Transmission and Distribution..	1,854	142	1,187	525
III. Municipal Street Lighting.....	754	754	.....	.....
IV. Commercial .....	2,174	12	2,160	2
V. Business Promotion .....	44	2	39	3
VI. General and Miscellaneous.....	5,128	380	4,248	500
	<hr/>	<hr/>	<hr/>	<hr/>
	\$44,214	\$2,993	\$34,805	\$6,416
Real Estate taxes only.....	57	4	42	11
	<hr/>	<hr/>	<hr/>	<hr/>
Total .....	\$44,271	\$2,997	\$34,847	\$6,427
General Amortization 7c. per M. cu. ft.	2,000	200	1,540	260
	<hr/>	<hr/>	<hr/>	<hr/>
Total Revenue Deductions omitting taxes based on gross receipts.....	\$46,271	\$3,197	\$36,387	\$6,687

Table II indicates that the necessary operating expenses included in Table II aggregate \$46,271, of which \$3,197 are allocated to the service of street lamps, \$36,387 to domestic metered customers and \$6,687 to the Tuckerton Gas Company. Table I and Table II will be brought together in Table III to show the combined totals and to these combined totals will be added an amount sufficient to provide for the franchise and gross receipts taxes to be levied in proportion to the gross revenue.

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 Ocean County Gas Company—Increase in Rates.
 

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TABLE III.

REVENUE REQUIRED TO RETURN SEVEN PER CENT. ON PROPERTY OF COMPANY.

	Company Total	Allocated to		
		Street Lights	Metered Customers	Tuckerton Gas Co.
Return on Capital .....	\$12,750	\$1,275	\$9,137	\$2,338
Operating Expenses <sup>1</sup> .....	46,271	3,197	36,387	6,687
Subtotal .....	\$59,021	\$4,472	\$45,524	\$9,025
Franchise and Gross Receipts on foregoing amounts <sup>2</sup> .....	5,440	412	4,196	832
Total Revenue .....	\$64,461	\$4,884	\$49,720	\$9,857
Less Miscellaneous Revenue .....	1,000	10	955	35
	\$63,461	\$4,874	\$50,675	\$9,892
Less Revenue from Service Charges .....	4,367	.....	4,367	.....
To be produced from gas sales....	\$59,094	\$4,874	\$46,308	\$9,892
Rate per M. cu. ft. ....			\$2.18	\$1.92
Taken as .....			2.20	1.90
M. cu. ft. estimated sold through meters.....			\$21,200	\$5,148

<sup>1</sup> And Real Estate Taxes.<sup>2</sup> To produce 5% for franchise and 3.44% for gross receipts taxes.

Table III indicates that the total revenue to be derived from gas sales is \$63,461, of which \$4,367 is assumed to be collected from the fixed service charge now included in the schedule and asked to be continued in same. This will leave a total amount of \$59,094 to be produced from gas sales, of which \$4,874 is to be derived from street lamps, \$46,308 from metered customers, and \$9,892 from the Tuckerton Gas Company. Based on consumption, this indicates a rate of \$2.18 for domestic consumers which will be taken at \$2.20 net, and a rate of \$1.92 per thousand cubic feet for the Tuckerton Gas Company which will be taken at \$1.90.

*Street Lamps.* The company's petition indicates that it serves 70 street lamps burning on an all night schedule and 13 street lamps burning until midnight. Assuming the company's estimate of 8 feet

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Ocean County Gas Company—Increase in Rates.

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of gas per hour to be burned for each lamp, the revenue of \$4,874 would be approximately \$4,232 to the 70 street lamps, making an average of \$60.40 per lamp, and \$642 to the 13 half schedule lamps, making an average of \$49.20 per lamp. In its estimate the company assumes that these lamps burn 8 feet an hour which is higher than the 71 Welsbach burner is usually set to burn. The Board is of the opinion that substantially \$10 may be deducted from the above prices per lamp, leaving the schedule at \$50 for the lamps burning from dusk to dawn and \$40 for the lamps burning from dusk to midnight. Except for the use of the gas, it will cost the company as much for lamps burning from dusk to dawn as from dusk to midnight.

## IV. SERVICE.

While no complaint was made of the character of the service furnished by the company in the proceedings, it is to be understood that the rates herein permitted to be filed contemplate that the company will furnish safe, proper and adequate service to its customers paying such rates.

## V. CONCLUSIONS.

The Board therefore finds and determines:

1. That the petition as filed should be and is hereby dismissed.
2. That the Board is satisfied that the company needs additional revenue for the proper operation of its plant and will permit it to file within ten days after the publication of this report the following schedule of rates:

## SCHEDULE FOR DOMESTIC CONSUMERS.

(a) Affixed service charge to all domestic consumers of \$3.00 (which includes no gas). Annual customers may pay this at the rate of 25 cents a month.

(b) The rate of gas consumed may be \$2.25 gross per thousand cubic feet less 5 cents a thousand cubic feet for payment in ten days after rendering the bill.

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Ocean County Gas Company—Increase in Rates.

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## SCHEDULE FOR STREET LIGHTS.

(c) For the 70 street lamps now in place or similar lamps burning on a "dusk to dawn" schedule the charge shall be \$50 a year, each payable in monthly installments.

(d) For street lamps burning from dusk to midnight, similar to those now in use, the annual charge shall be at the rate of \$40 per lamp, payable in equal monthly installments.

The schedule of rates hereinabove set forth in (a) (b) (c) and (d) may be effective for sales made on and after June 1st, 1921, subject to the following conditions:

Acceptance by the company of the increases herein allowed will be taken as a stipulation that abrogation or modification of all or part of the increases may be made as and if conditions as indicated by operating results both as to revenue and character of service rendered warrant.

Beginning at the effective date of said schedule of rates the company is to render to the Board quarterly reports showing the operating revenues, operating deductions excluding amortization, non-operating income, income deductions and balance available for general amortization, dividends, and surplus, and also the amount appropriated for general amortization, together with a comparison with the figures for the corresponding period of the preceding year. This statement may preferably follow the form shown in the annual report for gas companies (page 21, Income Statement: 22, lines 1 to 11, Operating Revenues; 26, lines 27 to 37, with amount appropriated for Amortization, Account 495, stated separately under VI.). And the Board will retain jurisdiction of the increases as herein approved for the purpose of modifying same as and if the conditions change.

Dated May 14th, 1921.

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Tuckerton Gas Company—Increase in Rates.

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**No. 884.****IN THE MATTER OF THE APPLICATION OF THE TUCKERTON GAS COMPANY FOR FURTHER INCREASE IN RATES.**

1. The Tuckerton Gas Company buys its gas from the Ocean County Gas Company. The Board has fixed a price to be charged by the Ocean County Gas Company to the Tuckerton Company of \$1.90 per thousand cubic feet. It is assumed that the latter company will pay this price for gas.

2. A return of \$1,500 is allowed upon the company's property in service. To provide for this return, purchase of gas, other operating expenses and taxes, it is estimated \$14,160 will be required. Of this, \$3,220 is allocated to street lights and \$10,931 to metered service.

3. A schedule of rates consistent with the foregoing is fixed.

*W. H. Jayne*, for Tuckerton Gas Company.

*William E. Blackman*, for Borough of Tuckerton.

The applicant filed a petition November 10th, 1920, alleging, among other things:

That the price for gas furnished by it in the territory in which it is doing business is \$2 per thousand cubic feet with a service charge of 25 cents a month or \$3 a year for three and five-light meters.

That "it is now necessary to make further increases in the sale" (rate?) "of gas to \$2.95 per thousand cubic feet as the purchase price from the Ocean County Gas Company will be increased 75 cents per thousand cubic feet for all gas sold to the Tuckerton Gas Company."

That the applicant asks to be allowed to charge all consumers \$2.95 per thousand cubic feet and a service charge of 25 cents per month or \$3 per year for three and five-light meters in order to enable the company to carry its investment charges.

Pursuant to notice, the matter was heard December 21st, 1920, at which time the company stipulated that the proposed rates should not go into effect until the matter had been finally adjudicated by the Board. The matter was taken into conference at the end of the hearing but no decision had been rendered in the matter by the predecessors of the members of the Board as now constituted.

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Tuckerton Gas Company--Increase in Rates.

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Pursuant to notice, the matter was reopened and heard by the Board on April 19th, 1921, at which time it was stipulated that the record theretofore taken should be considered by the present members of the Board.

The Tuckerton Gas Company buys its gas from the Ocean County Gas Company, delivery being made at the end of the transmission main of the latter company in the Borough of Tuckerton. The Board in another report of even date, has fixed a price to be charged by the Ocean County Gas Company to the applicant at \$1.90 per M. cubic feet instead of \$2.20 assumed necessary to be paid by the applicant as set forth in its petition. It will therefore be assumed in this report that the applicant will pay for gas purchased at the rate of \$1.90 per thousand cubic feet.

#### I. ESTIMATED SALES OF GAS FOR ENSUING YEAR.

The original proofs in this matter were based on the year ending September 30th, 1920. The annual report of the applicant has since been filed and the facts set forth therein being later, will be used in this report. The metered gas sold by the applicant in 1920 amounted to 4,571 M. cubic feet and 73 street lamps in service for only a portion of the year used 577.6 M. cubic feet. The applicant estimates that if these lamps were used for a full year they would burn 6.5 feet of gas an hour each for the full dusk to dawn schedule during the year, a total of about 960 M. cubic feet. The sum of these two amounts for a full year would aggregate 5,531 M. cubic feet, the metered gas constituting 82.65 per cent. of the total and the street lamps, 17.35 per cent. This figure is larger than that used in the report of the Ocean County Gas Company. The actual consumption was there assumed; this made no sensible difference in the rate.

#### II. ANNUAL AMOUNT ALLOWED FOR USE OF PROPERTY.

A considerable proportion of the property of this company is not in service and a valuation of the same has not been submitted by the company nor prepared by the Board's staff. There is outstanding

## Tuckerton Gas Company—Increase in Rates.

against this property \$25,000 of 5 per cent. bonds and \$25,000 in stock, which, however, covers not only the property now in service, but that which is not now used. The Board will assume a return of \$1,500 for the use of property in these proceedings and based on use will allocate to street lamps \$296 of this amount and \$1,204 to metered customers. About 45 per cent. of the \$296 assigned to the use of street lamps is for the use of the street lamps and heads alone, the charge for mains and plant being only \$163 a year.

## III. OPERATING EXPENSES FOR ENSUING YEAR.

In computing the operating expenses for the ensuing year it will be assumed that the company will purchase 5,531 M. cubic feet of gas at \$1.90 and the other expenses of labor and material will be the same as those shown in the 1920 annual report which correspond very closely to the figures submitted in evidence. They will be shown in Table I.

TABLE I.

OPERATING EXPENSES FOR ENSUING YEAR BASED ON 1920 EXPERIENCE AND A NEW RATE OF \$1.90 PER M. CUBIC FEET FOR GAS PURCHASED.

		For 73 Street Lights	Metered Cus- tomers
5,531 M. cu. ft. gas purchased at \$1.90.....	\$10,510		
Other Plant expenses.....	40		
<b>Total Production expenses.....</b>	<b>\$10,550</b>	<b>\$1,830</b>	<b>\$8,720</b>
Transmission and Distribution.....	400	40	420
Street Light Operation (Lighter \$600, Mtee. \$200) .....	760	760	
Commercial .....	240	6	234
General and Miscellaneous excl. Amortization..	380	12	368
Amortization .....	550	110	440
<b>Operating Expenses .....</b>	<b>\$12,940</b>	<b>\$2,758</b>	<b>\$10,182</b>

In Table I the total operating expenses aggregate \$12,941. of which \$2,758 is allocated to the use of 73 street lights and \$10,182 to service of metered customers.

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Tuckerton Gas Company—Increase in Rates.

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IV. REVENUE REQUIRED TO SUPPORT A RETURN OF \$1,500 FOR USE OF  
PROPERTY IN THE ENSUING YEAR.

It will be now necessary to bring together in a table the \$1,500 allowed for use of property and the operating expenses shown in Table I. To the aggregate amounts will be added the amount required to support a franchise and gross receipts tax aggregating 5.44 per cent. on the gross revenue to be received by the company. This will be done in the following table.

TABLE II.

SHOWING REVENUE REQUIRED TO SUPPORT A RETURN OF \$1,500 FOR USE OF  
PROPERTY FOR THE ENSUING YEAR.

	Company Total	Allocated to	
		St. Lights	Meters
For use of capital .....	\$1,500	\$296	\$1,204
Operating Expenses .....	12,940	2,758	10,182
Subtotal .....	\$14,440	\$3,054	\$11,386
Add to cover 5.44% franchise and gross receipts taxes (5.753%) .....	830	175	655
Total revenue .....	\$15,270	\$3,229	\$12,041
Less service charges on 370 customers.....	1,110	.....	1,110
To be derived from Gas sales.....	\$14,160	\$3,229	\$10,931
Per M. cu. ft. metered gas sold.....			\$2.39
Per street light per year.....		\$44.20	
Gas estimated to be sold.....		4,571 M cu. ft.	

In Table II the total revenue to be derived is allocated to street lights and meters. The total amount to be derived from sales of gas (after deducting \$1,110 as the estimated amount to be received from the service charge) is \$14,160, of which \$3,229 is allocated to the service of 73 dusk to midnight street lights and \$10,931 for the service of 4,571 M. cubic feet of metered gas. This indicates a cost of \$2.39 per M. cubic feet for metered gas which will be taken at \$2.40 per thousand.

*Street Lamps.* The amount of \$3,229 divided by 73 indicates an annual charge of \$44.20 for street lights. As has been hereinbefore

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**Tuckerton Gas Company—Increase in Rates.**

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indicated, this is based on a consumption of 6.5 cubic feet of gas per hour through a No. 71 Welsbach burner. If these burners be set to consume 5 cubic feet of gas per hour each they will give through proper mantles adequate illumination and the saving of 1.5 cubic feet per hour per lamp throughout the year, will effect a saving including franchise and gross receipts tax of \$4.46 and will reduce the annual cost to \$38.09 per annum.

**V. CONCLUSIONS.**

The Board therefore finds and determines:

1. That the petition as filed should be and is hereby dismissed.
2. That the Board is satisfied that the company needs more revenue.
3. That to secure such revenue the company may file within ten days after the issuance of this report, subject to the conditions hereinafter recited, the following schedule of rates.

**DOMESTIC CUSTOMERS SERVED THROUGH METERS.**

(a) A fixed service charge of \$3 a year for customers served through three and five-light meters, payable at the rate of 25 cents a month for all year round customers. This charge pays for no gas consumed through meters.

(b) For all gas consumed through meters the charge shall be at the rate of \$2.40 per thousand cubic feet consumed.

**STREET LIGHT SERVICE.**

(c) The charge for street lamps of the type now installed but set to burn at the rate of 5 cubic feet per hour may be charged for at the rate of \$38 per annum payable in equal monthly installments.

The schedule of rates hereinabove set forth in (a) (b) and (c) may be effective for sales made on and after June first, 1921, subject to the following conditions.

Acceptance by the company of the increases herein allowed will be taken as a stipulation that abrogation or modification of all or part

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New Jersey Gas Company—Increase in Rates.

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of the increases may be made as and if conditions as indicated by operating results both as to revenue and character of service rendered warrant.

Beginning at the effective date of said schedule of rates the company is to render to the Board quarterly reports showing the operating revenues, operating deductions excluding amortization, non-operating income, income deductions and balance available for general amortization, dividends and surplus, and also the amount appropriated for general amortization, together with a comparison with the figures for the corresponding period of the preceding year. This statement may preferably follow the form shown in the annual report for gas companies (page 21, Income Statement; 22, lines 1 to 21, Operating Revenues; 26, lines 27 to 37, with amount appropriated for Amortization, Account 495, stated separately under VI.). And the Board will retain jurisdiction of the increases as herein approved for the purpose of modifying same as and if the conditions change.

Dated May 14th, 1921.

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No. 885.

IN THE MATTER OF THE APPLICATION OF THE NEW JERSEY GAS  
COMPANY FOR FURTHER INCREASE IN RATES.

1. In determining the rates to be charged by a gas company the value of the tangible property as a basis for rates is taken as \$1,192,731. To this \$115,395 is added for intangible fixed capital and \$65,400 equal to five per cent. of the sum so obtained is added for working capital. The total amounts to \$1,373,500.

2. The company's estimate of gas supplied for street lighting appears to include gas furnished free in accordance with franchise provisions. The Board must assume in developing just and reasonable rates for all classes of service that the company will receive the schedule rates for such service, including street lights. Metered service furnished free under franchise provisions should also be paid for at schedule rates. This is increasingly more important in view of the high cost of furnishing gas and in view of the fact that the gas is furnished free in only a few localities out of the many served by the applicant.

3. The company asks that the Board allow it an 8 per cent. return on the fair value of its property devoted to the public use. In view of the fact that the trend of prices is distinctly downward the Board allows the amount of net revenue derived in 1916, viz., \$90,000.

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New Jersey Gas Company—Increase in Rates.

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4. A study of the property shows that 3.53 per cent. should be assigned to street lamps and the remainder 96.47 per cent. to metered service.

5. It is estimated that to provide for operating expenses and taxes and a return of \$90,000 the sum of \$437,800 will be required. Of this \$417.110 should come from metered service and \$20,690 from street lighting.

6. In fixing a schedule of rates to be charged it is required that in a part of the territory served, where the service is admittedly deficient and an order of the Board requiring improvements has not been complied with, the rate charged shall be ten cents per thousand cubic feet less than in other parts of the territory.

*Hearing of November 23d, 1920:*

*Norman Grey*, for the Petitioner.

*S. Huntley Beckett*, for Borough of Glassboro.

*Samuel P. Hagerman*, for Township of Gloucester and Township of Centre.

*Charles A. Long, Jr.*, for Laurel Springs and as Chairman of the Federation of Civic Associations of Camden County.

*Walter N. Keating*, for Clementon Township on behalf of Charles S. King and also as a member of the Public Utility Committee of the Camden Civic Federation.

*O. B. Redrow*, for Wenonah, Mantua and Woodbury Heights.

*George M. Clark*, for Glendora-Chews Improvement Association.

*J. T. Potter*, Mayor of Clayton.

*Joseph M. McCowan*, Mayor of Pitman.

*Edward H. Gurk*, Councilman of Pitman.

*C. H. Nichols*, Councilman of Woodstown.

*Walter Sylvester*, Borough Clerk of Woodstown.

*Hearing of April 15, 1921:*

*Norman Grey*, for the Petitioner.

*Frank B. Jess*, for Borough of Magnolia.

*George Marshall*, for Borough of Glassboro.

*John Erdman*, for Borough of Elmer.

*Samuel P. Hagerman*, for Township of Gloucester and Township of Centre.

*Charles A. Long, Jr.*, for Civic Federation of Camden County.

*Charles S. King*, for Clementon Township.

*Walter M. Keating*, for Stratford Civic Federation.

*C. H. Driver and Frank Richman*, for Borough of Bridgeport.

*J. T. Potter*, Mayor, for Clayton.

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New Jersey Gas Company—Increase in Rates.

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The petition in this matter was filed November 3d, 1920, and alleges, among other things:

That the company is authorized to charge the following rates for gas supplied to its consumers:

1. Domestic consumption:

- a. \$1.91125 for each 1,000 cubic feet of gas.
- b. A readiness to serve charge of 25c. per month for gas served through 3 or 5 light meters. For customers served through meters of larger capacity, the monthly service charge is increased one cent for each one light increase in capacity above a five light meter.

That the above rates were fixed by the Board in its order dated September 10th, 1918, wherein the readiness to serve charge was authorized and wherein a rate of \$1.65 net per 1,000 cubic feet of gas actually consumed by domestic consumers was fixed. By order of the Board based upon a report filed July 20th, 1920, the petitioner was authorized to increase its rate for gas by adding to its then existing rate the sum of 26.125 cents per 1,000 cubic feet, making the petitioner's net rate \$1.91125, plus the service charge as hereinabove set forth. The increase of 26.125 cents per thousand cubic feet was allowed the company to meet the exact increase in the cost of gas oil.

That since the fixing of rates before recited the costs of materials used in the manufacture of gas have greatly increased over the prices prevailing in 1918.

That the Board, in its report dated January 18th, 1916, valued the petitioner's property as of July 1st, 1913, at \$1,141,619.

That in making said appraisement the Board disallowed certain items representing excess equipment in capacity not then necessary for the proper service of the applicant's customers. The value of the excess property disallowed was \$88,671 (Board's reports, vol. IV, p. 318).

That the said property is now used and useful by reason of the petitioner's greatly increased business and that the value of the said property (\$88,671) should be included in the total appraisement value of the petitioner's property for the purpose of making rates.

That the total appraised value of the property brought down to September 30th, 1920, by the inclusion of the items aforesaid, plus

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New Jersey Gas Company—Increase in Rates.

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additions from the date of the appraisalment to September 30th, 1920, aggregates \$1,368,228.

That in order to earn 8 per cent. on the aforesaid value and to provide an additional amount of \$25,000 for amortization of depreciation the company will require a gross revenue of \$529,458.

That in order to earn said gross revenue the company proposes, with the permission of the Board, to put into effect November 10th, 1920, the following schedule of rates for all gas consumption:

1. The retail domestic consumer shall pay \$2.00 net per 1,000 cubic feet of gas actually consumed without discount or readiness to serve charge.
2. The industrial consumer shall pay \$1.05 per 1,000 cubic feet of gas actually consumed.
3. For each street lamp \$42.00 per year.

Under date of November 9th, 1920, the Board suspended the rates proposed to become effective as aforesaid until February 10th, 1921. After due notice the case was heard November 23d and 30th, 1920, at which time it was taken into conference.

No report having been made in the matter prior to the taking office of the present members of the Board, the matter was reopened and heard, after due notice, on April 15th, 1921, at which time it was stipulated by both sides that all the testimony and exhibits submitted previously should be considered by the new members of the Board without the necessity of a further rehearing of the facts theretofore adduced.

In his opening remarks on April 15th, 1921 (p. 2), counsel for the applicant made the following statement:

“Our present position before the Commission and before our consumers is this: that we should be allowed eight per cent. on the invested capital and we are asking now for a rate which will yield us that return. \* \* \* We rested our proofs as to the invested capital upon the findings of the commission.”

And again (p. 16):

Mr. Grey: “I very plainly said we are not asking for \$2.60. We are asking such a rate at the present cost as will return 8 per cent. on \$1,460,000. Just what that would be really, I

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New Jersey Gas Company—Increase in Rates.

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am willing to leave to the calculation of the scientific men who are employed by this Commission."

In November, 1920, and in April, 1921, in its affirmative proofs, the company submitted the following data with respect to the cost of supplies, labor and taxes. The cost of anthracite coal delivered at Glassboro per long ton was \$8.50 in September, 1918; \$10 in September, 1919; \$11.50 in October, 1920; and the cost as of April 15th, 1921, was \$12.64. The cost of coke per short ton in September, 1919, was \$10.20; in September, 1919, \$9.50; in October, 1920, \$13.60; and on April 15th, 1921, \$7.79. The cost of bituminous coal per short ton was \$6 in 1918; \$8 in September, 1919; \$13.25 in October, 1920; and \$6.93 on April 15, 1921. The cost of gas oil per gallon was 10.7 cents in September, 1918; 8.8 cents in September, 1919; 14 cents in October, 1920; and 9 cents on April 15, 1921. The cost of labor for the first nine months of 1918 was \$51,748; for the first nine months of 1919, \$58,806; and for the first nine months of 1920, \$66,411. The taxes for the year 1918 were \$19,856; for the year 1919, \$28,868; and for the year 1920, \$38,916.

The company's testimony in November, 1920, indicated that the gross revenue required, amounting to \$529,458 for the ensuing year, was made up as follows:

Estimated operating expenses .....	\$395,000
8 per cent. on property .....	109,458
Additional amount to make adequate depreciation (credit to reserve) .....	25,000
	<hr/>
	\$529,458

The company's witness estimated that the rates originally petitioned for would result in the following revenue:

Domestic consumption—190 Mil. cu. ft. at \$2.60 per M. cu. ft. ....	\$494,000
Industrial consumption—12 Mil. cu. ft. at \$1.65 per M. cu. ft. ....	19,800
Street lamp consumption—9 Mil. cu. ft.—373 street lamps at \$42.00 each .....	15,600
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	\$529,400

## New Jersey Gas Company—Increase in Rates.

In the interval elapsing between the last hearing in November, 1920, and the hearing on April 15th, 1921, considerable changes in the cost of materials occurred as has been recited hereinbefore. The applicant made no attempt to file a new schedule of rates which should reflect these changes in costs, but relied on the counsel's statement of the company's position at the opening of the hearing on April 15th, 1921, hereinbefore recited. The determination of just and reasonable rates for all classes of service will therefore now be taken up.

## I. VALUE OF THE PROPERTY USED AND USEFUL.

Following the method proposed by the applicant, the value of the property, brought down to December 31st, 1921, will be shown in Table I.

TABLE I.

## VALUE OF PROPERTY AS A BASIS FOR RATES—DECEMBER 31ST, 1920.

Value of Tangible Fixed Capital as of Dec. 31st as found by Board, Vol. IV, p. 329 .....	\$965,820
Net additions from 1/1/13 to 12/31/20.....	\$218,028
Less additions included in Board's value above.....	25,530
Additions to be added to Tangible Fixed Capital.....	192,498
Subtotal .....	\$1,158,318
Add for excess capacity found in 1913 but now used—	
Glassboro plant (Vol. IV, p. 317) .....	\$12,000
Glassboro excess generating capacity .....	4,000
One-half excess generating capacity of other plants (½ of \$36,826) .....	18,413
Total excess capacity now absorbed and used.....	34,413
Tangible Fixed Capital .....	\$1,192,731
Intangible Fixed Capital .....	115,395
Total Capital .....	\$1,308,126
Working Capital, 5 per cent. ....	65,400
Total as a basis for rates .....	\$1,373,526
Taken as .....	\$1,373,500

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New Jersey Gas Company—Increase in Rates.

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As shown in the last line of Table I, the value of the property of the applicant may be taken as \$1,373,500 as of January 1st, 1921. The Board does not at this time believe that the entire amount of \$88,671 for excess capacity not used in 1914 should at this time be included in the value of the property used and useful but allows the addition of \$34,413 as shown in Table I above.

II. OPERATING EXPENSES, NATIONAL AND LOCAL TAXES (OMITTING  
THAT PART OF THE FRANCHISE AND GROSS RECEIPTS  
TAXES TO BE LEVIED UPON REVENUE ARISING  
FROM THE USE OF CAPITAL).

In its original proofs asking for a base rate of \$2.60, the company based its application on the costs prevailing in the month of October, 1920. The costs of fuel and oil have considerably changed since that time. It will, therefore, be necessary, in order to determine just and reasonable rates for all classes of service, to prepare an estimate of the costs for the coming year based on prices expected to prevail during the next twelve months. The testimony in the case indicated that expenses for the coming year (except with respect to fuel and oil) will very closely approximate those during the calendar year 1920. It will therefore be necessary to determine the amount of gas to be manufactured and sold and compute the expenses on that basis. The applicant estimates that the sales of gas will be as follows:

Domestic consumption .....	190 Mil. cu. ft.
Industrial consumption .....	12 Mil. cu. ft.
Street lamp consumption .....	9 Mil. cu. ft.
Total .....	211 Mil. cu. ft.

The applicant's estimate for street lights appears to include the gas furnished free to street lamps required by franchise provisions. This appears from the fact that the company has 451 lamps burning (from dusk to dawn) approximately 4,000 hours each and consuming 5 cubic feet per hour, which will make an aggregate for the year of 9,020 M. cubic feet, which may be rounded off to 9,000 M. cubic

New Jersey Gas Company—Increase in Rates.

feet (see annual report, 1920, p. 37, lines 22 to 30). In subsequent calculations the Board must assume in developing just and reasonable rates for all classes of service that the company will receive the schedule rates hereinafter determined for such service including street lights. Calculations will therefore assume that the company is to be paid for the service rendered through the 451 lamps now attached to its system. The total amount of gas furnished free under the provisions of the franchise is stated in the report to be 1,661 M. cubic feet. The applicant's annual report for 1920 indicates that it received revenue for the sale of gas furnished through 378 revenue street lamps and furnished gas free to 73 street lights. As the company reports 1,661 M. cubic feet for franchise gas, it would appear that it also has metered consumption which is furnished free under franchise provisions which should be paid for at schedule rates.

To repeat, in deriving just and reasonable rates, the Board must assume that there will be no preferences or discriminations in the sale of the gas and all gas must be paid for at the schedule rates. This is increasingly more important in view of the high cost of furnishing gas and in view of the fact that the gas is furnished free in only a few localities out of the many served by the applicant.

The Board estimates the amount of gas to be manufactured in the ensuing year as follows:

The amount to be sold as per company's petition.....	211,000 M. cu. ft.
Non-revenue gas:	
Amount used by the company.....	1,876 M. cu. ft.
Gas unaccounted for (Est.).....	57,124 M. cu. ft.
	<hr/>
	59,000 M. cu. ft.
Total gas to be made.....	270,000 M. cu. ft.

In estimating the amount to be unaccounted for consideration is given to the fact that the line pressure for 1920 approximated 50 pounds per square inch. The petitioner's manager stated that it would be necessary, in order to supply the Laurel Springs district, to increase this pressure from 5 to 10 pounds. The amount of unaccounted for gas is estimated in the light of these facts.

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New Jersey Gas Company—Increase in Rates.

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## COST OF FUEL AND OIL.

The estimated cost of fuel and oil based on prices prevailing in April, 1921, and on quantities per thousand cubic feet estimated to be used, is set forth in Table II.

TABLE II.

USE OF SUPPLIES TO MAKE 270,000 M. CUBIC FEET, PRICES OF APRIL 1ST, 1921.

## Boiler Fuel—

$270,000 \times 25 \text{ lbs.} = 6,750,000 \text{ lbs.} = 3,875 \text{ S.T.}$	
3,875 S.T. at \$7.00 per S.T. is.....	\$27,125

## Generator Fuel—

$270,000 \times 42 \text{ lbs.} = 11,340,000 \text{ lbs.} = 50,625 \text{ L.T.}$	
50,625 L.T. at \$12.00 (price weighted for coal and coke).	60,750

## Gas Oil—

$270,000 \times 3.1 \text{ gals.} = 837,000 \text{ gallons.}$	
837,000 gallons at 9 cents.....	75,330

Total Fuel and Oil.....	\$163,206
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In Table III will be shown the estimate of all operating expenses including the cost of fuel and oil as set forth in Table II, together with all taxes as estimated (except franchise and gross receipts taxes to be levied upon the revenue allocated to return on capital). In column (1) are shown the expenses for the company as a whole; in columns (2) and (3) respectively these expenses are allocated to metered service and to street lights.

## New Jersey Gas Company—Increase in Rates.

TABLE III.

ESTIMATED OPERATING EXPENSES AND TAXES FOR ENSUING YEAR.

## Production Expense—

	(1)	(2) Metered		(3) Street Lights	
		Amt.	Per M. cu. ft. Sold	Amt.	Per M. cu. ft. Sold
Other than Fuel and Oil.....	\$40,470				
Boiler Fuel .....	\$27,125				
Generator Fuel .....	60,750				
Gas Oil .....	75,330				
Total Fuel and Oil gross.....	\$163,205				
Less Residuals Produced .....	2,445				
Net Cost Fuel and Oil .....	\$160,760				
Total Production Expense, Net <sup>1</sup> .....	\$201,230	\$192,660	\$0.966	\$8,570	\$19.00
Transmission and Distribution <sup>2</sup> .....	40,140	39,625	0.199	515	1.15
Municipal St. Ltg. Expense.....	5,500			5,500	12.10
Commercial Expense .....	18,500	18,230	0.091	270	.60
New Business .....	500	500	0.002		
General and Miscellaneous (no Amtzn.)	20,870	20,600	0.103	270	.60
	\$286,740	\$271,615	\$1.362	\$15,125	\$33.55
Amortization .....	10,000	9,600	0.048	400	.88
Total Operating Expenses.....	\$296,740	\$281,215	\$1.410	\$15,525	\$34.42
Taxes (part) .....	41,660	39,960	0.200	1,700	3.77
Uncollectible Bills .....	1,100	1,100	0.006		
	\$339,500	\$332,275	\$1.616	\$17,225	\$38.19
Gas to be made, M. cu. ft.....	270,000				
Metered Gas to be sold (reduced to terms of "base rate" gas).....	199,450				
451 street lights to burn.....	9,000				

<sup>1</sup> Apportioned on use—95.74% metered, 4.26% Street Lights.<sup>2</sup> 4.26% of 60%  $\times \frac{1}{3} = 1.278$  Street Lights.III. FAIR RETURN ON THE VALUE OF THE PROPERTY DEVOTED TO  
THE PUBLIC USE.

The applicant asks that the Board allow it an 8 per cent. return on the fair value of its property devoted to the public use. In view of the fact that the prices as revealed by the record in this case

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New Jersey Gas Company—Increase in Rates.

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are in a period of transition and that the trend is distinctly downward, the Board will allow as a fair return on the use of the property of the company the amount of net revenue derived by the applicant from its operations in the year 1916. This net revenue approximated \$90,000 and the Board determines that \$90,000 is the fair net revenue to be derived by the company for the use of its property for the ensuing year.

A study of the property devoted to the use of street lamps indicates that 3.53 per cent. of the value of the company's property should be assigned to street lamps and the remainder 96.47 per cent. should be assigned to metered service.

IV. TOTAL REVENUE REQUIRED TO SUPPORT A NET RETURN OF \$90,000  
PER ANNUM ALLOCATED TO CLASSES OF SERVICE.

The total revenue to be derived by the company for the ensuing year is indicated in Table IV, which follows:

TABLE IV.

SHOWING THE ESTIMATED REVENUE REQUIRED TO PRODUCE A NET RETURN OF \$90,000  
PER ANNUM (PREDICATED ON CURRENT PRICES FOR MATERIAL AND ON 1920 COSTS  
FOR LABOR) AND ALSO SHOWING ALLOCATION TO CLASSES OF SERVICE.

	Total Revenue Required	Allocated to			
		Metered Service	Per M.	Street Lights	Per M.
		Amt.	cu. ft. Sold	Amt.	cu. ft. Sold
Operating Expenses (Table III)....	\$339,500	\$332,275	\$1.616	\$17,225	\$38.19
Fair Return Allowed .....	90,000	86,825	0.435	3,175	7.04
Franchise and gross receipts taxes required for \$90,000 net revenue..	8,300	8,010	0.041	290	0.64
Total .....	\$437,800	\$417,110	\$2.092	\$20,690	\$45.87
Consumption of 199,450 M. cu. ft. of "base rate" gas estimated as sold. 451 revenue street lights estimated to be furnished.					

In the first column is shown the total revenue required to produce the net revenue indicated and in the following columns will be shown the amount allocated to metered service together with the amount per thousand cubic feet "weighted" gas sold to metered customers and for street lights. In arriving at the unit cost for metered gas, the 12,000 M. cubic feet of industrial gas is so weighted

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New Jersey Gas Company—Increase in Rates.

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as to correspond with the schedule of block rates hereinafter developed and for a consumption of 1,000 M. cubic feet a month this gives a weight of 78.7 per cent. in terms of the base rate. This will make a total weighted consumption of 1,994.5 M. cubic feet for metered gas in order to arrive at the base rate.

#### V. BLOCK SCHEDULE OF METERED RATES; FIXED SERVICE CHARGE.

Table IV indicates that the base rate for metered consumption slightly exceeds \$2.09 per M. cubic feet base rate. This may be rounded off to \$2.10.

The schedule of rates now in effect, as hereinabove recited, provides for the collection of a fixed monthly service charge varying with the size of the meter, plus approximately \$1.91 for domestic customers and for the gas actually used of \$1.65 per thousand for wholesale or industrial gas. Considerable objection was expressed at the hearing before the Board against including a fixed service charge owing to the fact that many consumers claim that service was not rendered by the company on many occasions. While the theory of the derivation of the service charge does not relate to the service of gas actually rendered by the company, but is related entirely to the interest, taxes, maintenance and depreciation on the service pipe and meter devoted to the individual customer (and which does not benefit any other customer) nevertheless, owing to the popular objection to this form of charge, the Board will calculate a schedule of block rates omitting therefrom a fixed service charge.

After due consideration of the factors entering into the matter, the Board is of the opinion that the following schedule of rates for metered customers will do substantial justice to customers using any amount of gas whatsoever. The wholesale features will be secured by charging for gas consumed in larger quantities according to block method of charging and the rate will progressively decrease from \$2.10 per thousand cubic feet for gas consumed in the first block of 25,000 cubic feet to an average of approximately \$1.65 for a customer using 1,000 M. cubic feet a month. By this system of charging each and every customer will be treated alike. The gas consumed in each block

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New Jersey Gas Company—Increase in Rates.

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will be billed at the rate for that block and this rate will depend on the quantity used without any arbitrary distinction between domestic customers and industrial customers.

The last three columns show the bills for each block, the cumulative bill for the various blocks and the last column shows the average rate for complete blocks. The right-hand column, last line, indicates that the customer using 1,000 M. cubic feet of gas per month will be entitled to a rate approximating \$1.65.

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AVERAGE RATE TO A CUSTOMER USING 1,000,000 CU. FT. PER MONTH.

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Consumption by blocks		Block Rate	Bill for each Block	Cumulative Bill	Average Rate
First	25,000 M. cu. ft. at.....	\$2.10	\$52.50	\$52.50	\$2.10
Next	25,000 M. cu. ft. at.....	2.05	51.25	103.75	2.075
Next	25,000 M. cu. ft. at.....	2.00	50.00	153.75	2.05
Next	25,000 M. cu. ft. at.....	1.95	48.75	202.50	2.025
Next	50,000 M. cu. ft. at.....	1.85	92.50	295.00	1.966
Next	50,000 M. cu. ft. at.....	1.75	87.50	382.50	1.91
Next	100,000 M. cu. ft. at.....	1.70	170.00	552.50	1.84
Next	100,000 M. cu. ft. at.....	1.65	165.00	717.50	1.79
Next	100,000 M. cu. ft. at.....	1.60	160.00	877.50	1.755
Excess	500,000 M. cu. ft. at.....	1.55	775.00	1,652.50	1.653

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VI. MUNICIPAL AND OTHER STREET LIGHTS.

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Table IV indicates that the cost of street lamp service is approximately \$45.85 per annum for each of the 451 street lights. It is probable that the company, upon the institution of higher prices for street lights, will lose a portion of this indicated revenue. To offset this loss the miscellaneous revenue averaging from two to three thousand dollars during the last three years has not been deducted from the required revenue and the amount of \$45.85 has been rounded off to an even \$45 per annum, it being assumed that if street lamps are required at all they will be of the type known as the Welsbach head lamps more generally used for revenue street lighting service in the territory of the applicant.

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New Jersey Gas Company—Increase in Rates.

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## VII. DEFICIENCIES IN SERVICE OF APPLICANT IN THE LAUREL SPRINGS DISTRICT.

There have been many strenuous complaints against the deficiency of service afforded to the inhabitants of the so-called Laurel Springs District. This district includes the quadrangle of mains running easterly from Blackwood to Clementon, northerly to Ashland, westerly through Magnolia to Runnymede and southerly through Chews to Blackwood. At the time this system of transmission mains was installed the territory was new and the managers of the company did not provide for the rapid increase in the number of customers which has actually taken place during the past ten years. Part of this territory, in the vicinity of Glendora, for instance, is served through a main approximately 1½" in diameter, which is almost too small even for a short length of main, to say nothing of a transmission main between towns. The deficiency of supply in this territory became so acute that the Board held a hearing and issued its report covering the subject dated November 9th, 1920, and on the same date issued its order, the pertinent paragraph of which is as follows:

(The Board) "HEREBY ORDERS AND DIRECTS the New Jersey Gas Company to install a main not less than six inches in diameter from Glassboro to Hurffville and to replace its existing three-inch diameter main from Hurffville to Blackwood, with a main not less than six inches in diameter and to have the said mains installed and connected to the distributing system of the company not later than May 1st, 1921."

At the hearing of April 15th, 1921, counsel for the applicant admitted that the physical work of installing this main had not yet begun, owing to the inability of the applicant to finance the construction under the conditions existing. By installing this main it is expected the company will be able to reduce pressures to those prevailing in 1914 or 1915. At that time the unaccounted for gas was substantially five to six per cent. less than that estimated in the foregoing calculations. If, then, this main were replaced and the company saved six per cent. of the 270,000 M. cubic feet of gas it would avoid the necessity of having to manufacture 16,200 M. cubic feet of

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New Jersey Gas Company—Increase in Rates.

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gas now required owing to losses due to the heavy pressure carried or expected to be carried during the coming summer. As the fuel cost alone of this 16,200 M. cubic feet at 60 cents per M. cubic feet aggregates very closely to \$10,000 a year, the saving alone, capitalized at 8 per cent., would be sufficient to pay 8 per cent. on \$120,000, which is more than the estimated cost of the extension.

Moreover, the amount credited to the reserve for depreciation (not required to be expended for current replacements of property) may under the statute be invested in new extensions properly capitalized. Furthermore, the evidence in the case clearly indicates that there is a demand for considerably more gas than the company has been able to furnish to this district. If this gas were furnished it again would serve to increase the revenue of the company without increasing the overhead salaries and expenses of a similar nature. In view of the fact that the applicant admits the deficiencies in service in this territory; admits that the physical work of installing the main in order to comply with the Board's order has not begun; and admits the great desirability of making this extension, the Board will require it to serve this territory at a rate of ten cents (10c.) per M. cubic feet less than the schedule hereinbefore recited until such time as it shall comply with the Board's order dated November 9th, 1920, above recited.

CONCLUSION.

The Board therefore finds and determines:

- (1) That the rates filed should be and are hereby denied.
- (2) That the Board is satisfied that the applicant should have and is entitled to a reasonable schedule of rates for all classes of service.
- (3) That the following schedule of rates is just and reasonable as between all classes of service, and may be filed by the company within ten days after filing this report, effective for sales made on and after June 1st, 1921, viz.:

(a) *Metered Service.*

For all gas served through meters the schedule of rates based on the monthly consumption as indicated by the meters shall be as follows:

Ocean City Sewer Company—Increase in Rates.

First	25,000 M. cu. ft. ....	\$2.10 net
Next	25,000 M. cu. ft. ....	2.05 net
Next	25,000 M. cu. ft. ....	2.00 net
Next	25,000 M. cu. ft. ....	1.95 net
Next	50,000 M. cu. ft. ....	1.85 net
Next	50,000 M. cu. ft. ....	1.75 net
Next	100,000 M. cu. ft. ....	1.70 net
Next	100,000 M. cu. ft. ....	1.65 net
Next	100,000 M. cu. ft. ....	1.60 net
Excess		
	over 500,000 M. cu. ft. ....	1.55 net

That the customers located in the Laurel Springs District shall be allowed a discount of ten cents (10c.) per M. cubic feet from the schedule of rates set forth in paragraph (a) foregoing, until such time as the company shall have completely complied with the terms of the Board's order of November 9th, 1920.

(b) *Municipal Street Lighting Service and Private Street Lights.*

The applicant should charge \$42 per year payable in equal monthly installments for all street lights using approximately 5 cu. ft. of gas per hour on a dusk to dawn schedule of burning.

Dated May 14th, 1921.

**No. 886.**

IN THE MATTER OF PROPOSED INCREASE IN RATES BY THE OCEAN CITY SEWER COMPANY.

A schedule providing for increased rates by a sewer company is allowed it appearing that the earnings of the company are not sufficient to pay increased operating expenses since the Board approved its rates in 1918 and to pay interest on bonds authorized by the Board.

*J. Fithian Tatem*, for the Petitioner.

*A. C. Boswell*, for the City of Ocean City.

*Thomas R. Fort* and *R. C. Hicks*, for Ocean City Taxpayers League.

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Ocean City Sewer Company—Increase in Rates.

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An appraisal of this property was made by the Board in 1918 and the present charges of the company were approved by the Board in 1918. These charges are: for cottages and buildings used for private dwelling purposes, \$1 per room for the first ten rooms and 75 cents per room in excess of ten rooms, with a minimum charge of \$5; for hotels and boarding houses of 20 or more sleeping rooms, \$1 each for the first 30 sleeping rooms and for sleeping rooms in excess of thirty, 75 cents each, and yielded the company sufficient to meet operating expenses and interest on its bonds, but during the last year the expenses of the company were increased over \$3,100 of which \$1,600 is in increased taxes.

The company has submitted a schedule of rates as follows: \$1 per room in private houses to the number of ten rooms and in hotels to the number of thirty, and 75 cents per room in excess of said numbers. The company desires to make in addition to this a fixture charge for all fixtures in excess of what it calls "the average installation" which consists of laundry fixtures, kitchen sink, one bath tub, one toilet and one wash basin, of 50 cents per fixture.

The Board has heretofore authorized the company to issue \$180,000 of 5 per cent. bonds. The floating indebtedness of the company for extensions properly chargeable to capital account according to the testimony is \$30,000 upon which interest is being paid at the rate of 5 per cent. The depreciation charges are \$2,000 a year. While the company has \$25,000 in stock, dividends were paid thereon in only one year out of the last twenty. The proposed plan is approved by the Counsel for Ocean City.

As the earnings of the company are not sufficient to pay the increased operating expenses since the proceeding aforesaid and the interest on the bonds authorized by the Commission, the schedule of rates submitted will be approved.

Dated May 14th, 1921.

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Hillcrest Water Co.—\$33,500 in Six Per Cent. Bonds.

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**No. 887.****IN THE MATTER OF THE APPLICATION OF THE HILLCREST WATER COMPANY FOR APPROVAL OF THE ISSUE OF \$33,500 IN SIX PER CENT. BONDS.**

*Herbert J. Hapgood, for the Petitioner.*

This application was filed on April 2d, 1921, superseding a previous application for \$32,500 in bonds made on September 8th, 1920, and hearing was held on April 11th, 1921.

This application differs from the preceding application in that the amount applied for is \$1,000 more than was covered in the previous petition and that a statement of actual expenditures is submitted for part of the work which was previously listed as a proposed expenditure. The petition requests the approval of the following: (1) That permission be given to the petitioner to apply the proceeds of \$5,500 par value of bonds, already approved in 1917 for the installation of hydrants, to reimburse the company for expenditures made for other purposes, namely, for mains, meters, etc., as shown in a schedule submitted with the petition. (2) The issue of \$33,500 in bonds to cover uncanceled expenditures for mains, meters, services, etc., as of December 31st, 1920 (after allowance for the \$5,500 mentioned in item 1), and also the cost of well No. 4 as shown in Schedule "C" attached to the petition and to provide for the cost of other proposed expenditures. The uncanceled expenditures as of December 31st, 1920, for mains, meters, services, etc., amount to \$16,916.33. Deducting \$5,500 mentioned in (1) leaves uncanceled \$11,416.33. In arriving at this total there is included for the year ending December 31st, 1919, the cost of repiping three wells. In checking up this work with the treasurer of the petitioner in connection with the application which was filed on September 8th, 1920, it was agreed there should be a further credit of \$500 (\$100 had already been credited for salvage on the company's books) to cover the capital cost of old pipe removed which would reduce the capitalized balance indicated above to \$10,916.33. Adding to this amount the cost of well No. 4, namely,

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Hillcrest Water Co.—\$15,000 in Six Per Cent. Bonds.

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\$10,493.82 and the cost of other proposed work exclusive of hydrants estimated to cost \$11,589.85, makes the total \$33,000.

The company has asked the approval of the issue of these bonds at par and approval will therefore be given by the Board to the issue of \$33,000 in six per cent. bonds at par for the purposes as indicated in this report and in the company's petition. A certificate will so issue.

Dated May 14th, 1921.

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**No. 888.**

IN THE MATTER OF THE APPLICATION OF THE HILLCREST WATER  
COMPANY FOR APPROVAL OF THE ISSUE OF \$15,000 SIX PER  
CENT. BONDS.

*Herbert J. Hapgood*, for the Petitioner.

This application was filed on April 2d, 1921, superseding a previous application for the same amount filed on December 18th, 1920, and hearing was held on April 11th, 1921.

This petition requests that approval be given to the issue of \$15,000 in bonds for the purpose of installing 100 hydrants in Mountain Lakes as directed by the Board of Fire Commissioners and in accordance with the order of this Board dated November 23d, 1920. The estimated cost of the hydrants installed is \$125 each, or a total of \$12,500. The company asks the approval of these bonds on the basis of their sale at the best price above 80.

The Board is of the opinion that the petitioner should receive for its bonds which cover the property of a water utility and bear six per cent. interest an amount not less than 90.

The Board will therefore approve, for the purpose requested in the petition, a par value of \$14,000 in six per cent. bonds to be issued at not less than 90. A certificate will so issue.

Dated May 14th, 1921.

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Cape May Light and Power Co.—\$65,000 in Bonds at 80.

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**No. 889.**

IN THE MATTER OF THE APPLICATION OF THE CAPE MAY LIGHT AND  
POWER COMPANY FOR APPROVAL OF AN ISSUE OF BONDS AT 80  
IN THE AMOUNT OF SIXTY-FIVE THOUSAND DOLLARS (\$65,000).

1. In a prior proceeding approval was given to an issue of bonds in the amount of \$45,000 to be exchanged at par for an equal amount of floating indebtedness representing all uncapitalized net construction expenditures made before June 1st, 1920.

2. A new application is made based upon an added net value of \$7,000 to property and the claim that the holders of the bonds as exchanged must obtain cash for them and they cannot be issued above the maximum legal rate of 80 per cent. of par value.

3. The Board is of the opinion that bonds bearing interest at six per cent. should not be issued at less than 85. Approval is given to the issuance of bonds in the par value of \$61,000 to be sold at 85.

*C. L. S. Tingley*, for the Company.

Application in this matter was filed December 4th, 1920, and is in effect an appeal from the decision of the Board in the former application made by the company on June 30th, 1920. In the former application the company applied for the approval of a new mortgage in the amount of \$500,000 of 6 per cent. bonds and the issue thereunder of bonds in the amount of \$75,000. The original application, made in June, 1920, stated that the bonds would be sold for cash at not less than 75 or would be exchanged at par for all or part of the company's floating indebtedness.

The application made in June, 1920, was based upon the fact that the company had expended considerable sums of money on the rehabilitation and additions to the plant and system operated in Cape May and vicinity and that these additions were properly chargeable to capital account to the extent of \$78,723.38. The expenditure of moneys as stated created a floating indebtedness carried as "advances from affiliated companies." In view of the fact that a new mortgage was being created and that the purpose for which bonds were to be issued was the capitalization of actual additions to the value of the plant, a complete appraisal of the property was made which developed

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Cape May Light and Power Co.—\$65,000 in Bonds at 80.

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the fact that the actual net additions to the company's property amounted to about \$45,100. In arriving at this conclusion certain unused generating units were valued as junk only.

Based on these conclusions the Board, on November 9th, 1920, issued its certificate approving an issue by the company of bonds in the amount of \$45,000 to be exchanged at par for an equal amount of floating indebtedness, as representing all uncapitalized net construction expenditures made prior to June 1st, 1920.

December 4th, 1920, the company submitted a new application based upon two matters. First, a study by the engineers of the company had resulted in the decision to rehabilitate one of the three generating units referred to above and the company desired to have it included in the valuation of the property at its proper value as a working unit. This, with a slight adjustment in working capital, results in an added net value of the company's property of \$7,000. The second reason for the application of December 4th, 1920, is based upon the fact that the company now, instead of exchanging the bonds at par, finds that the holders of the company's debts are unable to indefinitely hold these bonds but must obtain cash for them at the best market price available and the company contends, therefore, that they cannot be issued above the minimum legal rate which is at 80 per cent. of par value.

As a result of the hearing of this matter by the Board on April 4th, 1921, the Board finds and determines that the inclusion at the present time of the plant equipment heretofore omitted will result in an additional value of \$7,000 and bonds representing this value may be issued. The Board is not of opinion, however, that these bonds, bearing interest as they do at 6 per cent., should be issued at less than 85. The Board will therefore give its approval to the issuance of bonds in the par value of \$61,000, which, sold at 85, will net the company approximately \$52,000.

Dated May 14th, 1921.

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Glen Gardner Water Company—Increased Rates.

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**No. 890.**IN THE MATTER OF THE APPLICATION OF THE GLEN GARDNER WATER  
COMPANY FOR INCREASED RATES.

## ORDER.

It appearing from the proofs offered in behalf of the applicant, that the purpose for which increased rates over existing rates are proposed to be made is to raise revenue with which to defray the cost entailed in making capital expenditures, in improvements to plant.

It is ORDERED that the rates filed be disapproved and the petition be denied.

Dated May 19th, 1921.

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**No. 891.**IN THE MATTER OF THE APPLICATION OF THE BURLINGTON COUNTY  
TRANSIT COMPANY FOR INCREASED RATES.

1. The petitioner's property was sold in 1910 at receiver's sale, the bondholders purchasing it for \$120,000. It was testified at the time that the property was probably worth the bonds paid for it which then had a face value of \$400,000. The company also submitted an appraisal of its property showing original cost of \$343,004 and reproduction cost of \$530,917.

2. For the year 1919 gross operating revenues were \$78,500, including \$1,925 miscellaneous revenues. Deducting the latter leaves \$76,575 as the amount of passenger revenue.

3. It is estimated the operating expenses and taxes for the coming year will be \$79,190. Adding to this \$9,625 depreciation allowance previously fixed by the Board makes \$88,815 total of revenue deductions.

4. The Board determines an increase from five cents to seven cents in each of the company's fare zones should be approved, subject to the condition that the company arranges to transport passengers throughout the zone extending from Chester Avenue in Moorestown to Hartford instead of from Hartford to Borton's Landing Road.

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**Burlington County Transit Company—Increased Rates.**

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*George B. Evans*, for the Petitioner.

*Herbert S. Killie*, for Borough of Northampton, County of Burlington, and Mount Holly Business Men's Association.

On August 16th, 1920, the Burlington County Transit Company filed with the Board a proposed increase in fares to take effect October 1st, 1920. At the hearing the company stipulated that it would not put the rates into effect, however, until the Board had an opportunity to investigate the matter.

Due notice was given and proper proof produced at the hearing to that effect. Notice was given by publication in all of the street cars operated by the company and, in prominent places in Mount Holly and Morristown, notices were posted.

The proposed change in rates involves an increase from five cents, as now charged, to a fare of seven cents. No changes are proposed in connection with the lengths or limits of the ride, the fare zones remaining as they have been for several years in the past. School children are to be carried as heretofore. Children under the age of five years, when accompanied by an adult paying fare, also to be carried free. Children over five years of age to be charged full fare.

At the hearing it was testified that the operating revenues and operating expenses had both increased but that the increased costs of labor and power during the past year made it necessary to seek increased revenues. Small dividends have been paid during the past three years, but these were paid from earnings accumulated during previous years.

This company has never been able to properly maintain its property and in 1910, owing to inability to pay interest, it was sold at a receiver's sale, the bondholders purchasing the property for the amount of \$120,000, although it was testified for the Board at the time that the property was worth, in all probability, the amount of bonds paid for it, which at that time had a face value of \$400,000. The company also submitted an appraisal of its property showing original cost of \$343,004 and reproduction cost of \$530,917.

In March, 1917, the Board issued an order requiring this company to set aside annually out of its earnings the sum of \$9,625 to provide for accruing depreciation of its property over and above ordinary

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**Burlington County Transit Company—Increased Rates.**

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maintenance expenses. The Board at that time expressed its opinion that the total charges for both maintenance and depreciation ought to approximate \$12,000 per annum. The actual expenditures for maintenance alone during the past two years have averaged more than twice this amount, but nevertheless the company was carrying on its books at the close of 1919 a depreciation reserve of \$21,146.59, including an increase for the year of \$5,625, which was the excess of the annual appropriation of \$9,625 over the cost of a new car purchased, viz., \$4,000. The total balance in the reserve has been allowed to accumulate in a fund, the greater part of which at the present time comprises investments in Liberty Bonds aggregating \$17,669.

At the hearing in this matter the company's officials testified that they had construed the Board's order to require a segregation of this depreciation appropriation and had allowed it to accumulate in a fund instead of expending it on the property. That this practice was entirely wrong and the Board's order misunderstood are shown in the Board's memorandum of March 13th, 1917.

The Board contemplated the expenditure of this depreciation appropriation for replacement purposes during, if practicable, the current year. The present condition of this property certainly warrants the expenditure of larger sums for reconstruction and replacement and the amount set aside for depreciation, instead of accumulating in a fund as it has been recently, should be utilized currently until such time as the property is put on a thoroughly substantial condition basis.

For the year 1919, the company's gross operating revenues, as shown by its annual report to the Board, were \$78,500, including \$1,925 miscellaneous revenues. Deducting the latter figures from the former leaves \$76,575 as the amount of passenger revenue for that year. From the proposed increase in fare the company's general manager estimates \$20,000 additional revenue would be derived, making \$96,575 as the total amount of passenger revenue for one year at the higher rate of fare. To obtain this revenue it would be necessary to carry 1,379,642 passengers, which is approximately eleven per cent. under the number actually carried by the company during the year 1919, namely, 1,549,670. In the case of a majority of the other street railways in the State that have increased their rate of fare from five to seven cents, the falling off in the number of passengers carried

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Burlington County Transit Company—Increased Rates.

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has been approximately fifteen per cent. This would indicate that the company's estimate of the increase in revenue from the higher rate of fare is rather too high than too low.

The operating expenses and taxes for the coming year are estimated by the company to be twenty per cent. higher than they were during 1919. The total revenue deductions for that year, exclusive of depreciation charges, were \$65,992. Increasing this amount by twenty per cent. gives \$79,190 as the amount of revenue deductions excluding depreciation for the coming year. Assuming that the same number of car miles are operated in this period as in the year 1919, *i. e.*, 229,238, this will make the cost per car mile 34.6 cents, which is somewhat lower than the actual operating car mile cost during the first eight months of the present year in the case of some of the larger street railway companies, according to their monthly reports filed with the Board.

Adding to the \$79,190 for operating expenses and taxes the \$9,625 allowance for depreciation fixed by the Board in 1917, makes \$88,815 as the total amount of revenue deductions for the coming year. The gross revenues at the increased rate of fare are above indicated to be approximately \$98,500 or \$9,685 more than the revenue deductions. The latter amount is approximately eight per cent. of the par value of the company's outstanding capital stock, which, however, as has above been indicated, is less than half the actual cost of the street railway property for which the stock was issued.

The record indicates that until recently the company operated six fare zones from Burlington Wharf, in Burlington, through Mount Holly to Chester Avenue in Moorestown, Burlington Wharf and Chester Avenue being the two termini of the system.

The first fare zone originally began at Chester Avenue in Moorestown and ran over the tracks of the Public Service Railway Company to Borton's Landing Road; thence over the applicant's lines to the Town of Hartford; the next from Hartford to Rancocas Park; the third from Rancocas Park to the Northern end of Mount Holly at the Fair Grounds. In Mount Holly there is an overlap. The fourth zone out of Mount Holly extends to a place known as Johnson's Siding; the fifth zone runs to the point at which the road crosses the Pennsylvania Railroad out of Burlington on the Mount Holly-Burlington Road (locally known as Whitmire's Corner). The sixth and

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Burlington County Transit Company—Increased Rates.

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last zone extends from Whitmire's Corner to Burlington Wharf in Burlington. The overlap in Mount Holly permits the passenger to ride from the westerly side of Mount Holly through the ensuing fare zone or the passenger going toward Burlington can ride up to the Fair Grounds and the passenger coming from the Fair Grounds may ride through Mount Holly.

In the first zone above mentioned, beginning at Chester Avenue, the company formerly operated to Borton's Landing Road over the tracks of the Public Service Railway Company. These tracks fell into such a bad condition that the operation over them was abandoned by reason of that fact and by reason of the further fact that the applicant and the officials of the Public Service Railway Company had not, up to the time of the hearing, agreed on a traffic arrangement permitting further operation over this section of the applicant's route. In view of the fact that the fare zone has heretofore always extended from Chester Avenue in Moorestown to the Town of Hartford, the Board is of the opinion that the applicant should make arrangements whereby passengers desiring to traverse this first zone may continue to be transported in either direction from Chester Avenue to Borton's Landing Road or from Borton's Landing Road to Chester Avenue. This arrangement may be effected by a traffic agreement with the Public Service Railway Company or by any other suitable means of transportation but is a condition precedent to the Board's granting of the petition in this matter. Whatever arrangement the applicant may make, the facilities to be provided must be such as to furnish safe, adequate and proper service over this now abandoned section of the zone extending from Chester Avenue to Borton's Landing Road.

The Board therefore finds and determines that the application for increase of fares filed in this proceeding should be and is hereby approved, subject, nevertheless, to the condition that the company will arrange to transport passengers throughout the zone extending from Chester Avenue in Moorestown to the Town of Hartford instead of operating only from the Town of Hartford to Borton's Landing Road as is the case at present.

An order will so issue to become effective when such conditions are complied with.

Dated May 19th, 1921.

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**Burlington County Transit Company—Increased Rates.**

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**ORDER.**

The Board of Public Utility Commissioners, having on the date hereof made and filed a report stating its finding of fact and conclusions thereon, which report by reference thereto herein is made part hereof,

HEREBY APPROVES, to become effective following the provision of transportation facilities as hereinafter ordered, the following schedule of rates of the Burlington County Transit Company:

A fare of seven cents (7c.) where five cents (5c.) is now charged.

School children shall be carried as heretofore.

Children under the age of five years, when accompanied by an adult paying fare, to be carried free.

Children over five years of age to be charged full fare.

And ORDERS that facilities for the transportation of passengers be provided between Borton's Landing Road and Chester Avenue, Moorestown, either over the tracks of the Public Service Railway Company in continuation of the terminus of the right of way of the Burlington County Transit Company, or in some other manner to be submitted to the Board for approval within twenty days from the date hereof.

The company, for a period of five days preceding the date when the rates herein set forth go into effect, shall post notices of the contemplated change of fare in each and every car operated along its lines.

Dated May 19th, 1921.

Public Service Railway Company—Increase in Rates.

**No. 892.**

IN THE MATTER OF THE APPLICATION OF THE PUBLIC SERVICE RAILWAY COMPANY FOR A FURTHER INCREASE IN RATES.

1. The railway company bases its present application for an increase in rates on the theory adopted by the Board in former proceedings in which increases were allowed; that is to say, that the rate applied for is an emergency rate.

2. At the time an emergency increase was allowed this country was in active participation in the war, a crisis was imminent and it was ascertained that in order to render the public continuous, safe, adequate and proper service the company required additional revenue and it was determined that the existing rate was insufficient.

3. In the opinion of the Board, there is no such emergency present as would require it to fix any other rate in excess of the existing rate without consideration of all the elements recognized as being entitled to consideration in a proceeding to fix a just and reasonable rate.

4. Under all conditions, a result based upon an investigation with a full consideration of the various factors necessarily requiring consideration for the fixation of a just and reasonable rate would be more just to both the public and the company than one based upon the few factors presented in and necessarily the only ones considered in emergency cases.

5. Analysis of operating revenues and expenses indicates that the company is not in such urgent need of revenue as would preclude its continuing furnishing service for the time required to complete the collateral case in which the value of its property is being considered. The Board is not satisfied from the proofs offered by the company that it is at this time in need of the relief to be afforded by the schedule as filed nor is it satisfied that it should at this time be granted any further increase in the present schedule of fares.

*Frank Bergen, L. D. H. Gilmour and E. W. Wakelee, for Public Service Railway Company.*

*J. T. Congleton, for City of Newark.*

*George L. Record, for City of Jersey City.*

*William A. Karanaugh, for City of Hoboken.*

*A. O. Müller, for City of Passaic.*

*C. H. Stewart, for Town of Irvington.*

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Public Service Railway Company—Increase in Rates.

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*S. N. Cady*, for Chamber of Commerce of City of Elizabeth.

*Joseph T. Hague*, for City of Elizabeth.

*Thomas W. Jack*, for Borough of Collingswood.

*E. W. Grauert*, for Weehawken.

*Thomas H. Haggerty*, for City of New Brunswick.

*Charles A. Reed*, for City of Plainfield.

*Charles E. Bird*, for City of Trenton.

*J. H. T. Martin*, for Township of Woodbridge.

*John C. Barclay*, for Town of Montclair.

*Charles P. Gillen*, for New Jersey State League of Municipalities.

*C. K. Read*, for Borough of Ridgefield.

*William W. Crane*, for Borough of Verona.

*B. C. Austin*, for Cranford.

*George Gold*, for City of Clifton.

The Public Service Railway Company filed a rate of ten cents as a charge instead of the existing seven-cent rate with a cent for a transfer. Together with the filing of the rate, a statement was filed by the president of the railway company in which, among other things, it was alleged:

“The rate of fare of 7 cents, with 1 cent for a transfer, upon the lines of Public Service Railway Company has now been in effect, without interruption, for a period of one year. When this rate was restored on December 7th, 1919, it was

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Public Service Railway Company—Increase in Rates.

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hoped by the Company and expected by the Board that it would produce sufficient revenue to enable the Company to pay its operating expenses and fixed charges and set apart \$800,000 per year for depreciation. It was thought that this rate would keep the Company going, although without return upon its capital stock, until such time as the valuation of the property of the Company, then in process of being made by the Board, should be completed, which it was thought would be within a few months, at which time a final rate could be predicated upon the value of the property as determined. Since the passage by the Legislature of 1920 of the Act providing for a valuation of the Company's property by independent engineers, the Board has suspended further hearings in the valuation inquiry it was conducting and is awaiting the valuation provided for in the Act above mentioned, as was clearly the legislative intent. This valuation should be completed within a few months.

"Unfortunately, however, the rate of 7 cents, with 1 cent for a transfer, has not done and is not doing what it was thought it would accomplish. Instead of enabling the Company to meet its operating expenses and fixed charges and provide a depreciation fund of \$800,000 per annum, it has failed to provide any depreciation fund whatsoever, and, in addition thereto, has resulted in an operating deficit of approximately \$400,000, making a total deficit for the year of approximately \$1,200,000."

At the session of the Legislature of 1920 there was passed an act creating a commission to employ independent engineers to make a valuation of street railway properties and under this act the commission was organized and engineers were appointed to make a valuation of the property of the applicant company. The Legislature of 1921 passed an amendment to this act which required this Board to determine the value of street railway properties within a period of three months after the filing of the report of the engineers with this Board, making the said report presumptive evidence in said proceeding and permitting the cross-examination of the engineers when requested. The report of the engineers was filed by the Commission with this Board on April 14th last and hearings have been

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Public Service Railway Company—Increase in Rates.

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resumed, which necessarily, by the provisions of the act, must be completed by July 14th.

The railway company bases its present application on the theory adopted by this Board in the former proceedings in which increases were allowed to the railway company; that is to say, that the rate applied for is an emergency rate. The power of the Board was challenged and the theory upon which the former increases were allowed was approved by the Supreme Court in the case of *O'Brien v. Board of Public Utility Commissioners*, 92 N. J. Law, p. 44, which was affirmed by the Court of Errors and Appeals, *Ib.* page 587.

There are therefore two proceedings pending in which the rates of the railway company are involved, the proceeding at bar predicated on the existence of an emergency, and the proceeding instituted by the Board in which it proposes to fix the just and reasonable rates of the railway company, in which proceeding as one of the bases the valuation must necessarily be considered. There have been so many variations in the rates charged by the applicant company within the last few years that it becomes immediately pertinent to inquire whether or not such an emergency exists in the affairs of the railway company as to require an immediate disposition of the matter or whether its condition is not such as to permit the present rates to remain until the case involving the final fixation of a just and reasonable schedule of rates can be disposed of.

In its report of July 10th, 1918, in and by which the first increase in rate was allowed to the applicant company, an emergency was defined as follows:

“An emergency for which a carrier is entitled to relief by a temporary emergency rate exists where, by reason of general conditions not affecting the applicant utility alone, the operating revenues are insufficient to operate and maintain its property and to pay rentals and interest on such of its securities, a default in the payment of which would jeopardize the solvency of the company.”

At that time this country was in active participation in the war, a crisis was imminent; it was ascertained that in order to render the public continuous, safe, adequate and proper service, the railway company required additional revenue, and it was determined that the existing rates was insufficient.

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Public Service Railway Company—Increase in Rates.

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The Board therefore confined its consideration to the following elements: operating revenue, operating expenses and taxes, income deductions, appropriation for depreciation reserve, wage increases and taxes on additional revenue.

That the action of the Board at that time was predicated upon the existence of a war emergency is indicated by the opinion of the Supreme Court in the following language:

"The evidence shows that the increase was only enough to enable the railway to meet the increased expenses forced upon it by the order of the War Labor Board of the Federal Government to increase wages. The increase permitted the railway allowed nothing for return on large investments of capital. \* \* \*

"It follows with the certainty of a geometrical axiom that the addition of just enough to meet the increased wages forced on the railway company by the War Labor Board could not make unreasonably high what was not so before."

O'Brien v. Board of Public Utility Commissioners, 92 N. J. Law, p. 44.

Predicated on the theory that an emergency exists, the rates filed herein are pursuant to paragraph (h) of Section 17 of the Act creating the Board. That paragraph provides for an increase of rates by the public utility itself and authorizes the Board to hear and determine whether the rate is just and reasonable and makes it its duty to approve the increase upon being satisfied that the same is just and reasonable. In this proceeding the company as an alternative requests the Board to either approve the ten-cent rate "or fix some other rate that will afford the necessary relief." This would authorize the Board in the event that it considered an increase to be necessary to fix such a schedule of rates as it believes may be necessary to absorb the increased costs indicated by the Board in the elements which must be considered in an emergency. In consideration of this matter, therefore, the Board must keep in mind two points:

(1) That the same or a similar emergency should exist as existed when the country was involved in the war, and

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Public Service Railway Company—Increase in Rates.

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(2) That any rate fixed would be temporary only for the reason that but a short time will elapse when the Board must necessarily fix just and reasonable rates upon scientific and legal bases.

In the same opinion (O'Brien case) Justice Swayze indicated the complexity involved in the fixation of a rate. He said:

"The question of the reasonableness of a rate has always been regarded as complex and as largely a business question.

"Even in the narrower question of determining the value of the property, it has long been settled that the original cost of construction, the amount expended in permanent improvements, the amount and market value of bonds and stocks, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case.

"The reasonable worth of the services rendered is a maximum of the permissible rate, and a fair return on the value of the property is a minimum. \* \* \* Such a standard is certainly a flexible one, and sustains the view taken by this court in *Public Service Company v. Public Utility Board* (the gas rate case). \* \* \* We there said that a just and reasonable rate is rather a question of business judgment than one of legal formula, and must often be tentative, since the exact result cannot be foretold, and that the real test of the justice and reasonableness of an individual rate is that it should be as low as possible and yet sufficient to induce the investment of capital in the business and its continuance therein."

The Board is of the opinion that no emergency exists such as was defined and intended by the Board or the Court in the O'Brien case. The emergency defined by the Board in the O'Brien case was one not affecting the applicant utility alone but affecting all business generally. It is unnecessary to point out that in almost all other fields of industrial activity, if not in that of utilities, costs have fallen and are continuing to fall.

The condition of the applicant is rather one of economics than one involving a crisis such as was present during the war, and such as was

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Public Service Railway Company—Increase in Rates.

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considered in the O'Brien case. The Board is unwilling to extend the "emergency" doctrine made necessary, as it was, by the Government's increasing wages as a war measure, at least until it is shown that an increase in rates is imperatively needed to render safe and adequate service to tide the utility over until a just and reasonable rate can be fixed after all the elements involved in the making of such a rate have been considered.

It may safely be assumed that prices were at their highest during the past year or two, and that the tendency of labor and material costs during this period of readjustment is surely downward. During the war wages of employees were largely controlled by the action of Governmental agencies. The awards made by the National War Labor Board were necessarily accepted by the company. The increases in wages allowed by that Board were factors beyond the control of the company and these constituted the great bulk of the increase in the operating costs of the company. Now, however, the wage question is a matter that is entirely within the control of the railway company to deal directly with its employees. It is admitted that no further increases in wages are contemplated, the present contract with the skilled men expires August 1st, and reductions are now being made in the wages of unskilled labor.

The increase in revenue which the company seeks also contains elements which could not be considered in connection with an emergency application. There is included an item which seems to make up an alleged insufficiency in the revenue accruing during the year 1920 to pay operating expenses, taxes and fixed charges for that year; also an item to take care of current depreciation calculated on the basis of increased costs, as well as an item indicating the deficiency which accrued in 1920 to take care of the current depreciation. It also seeks to make up in the rate applied for one-third of the deficiency alleged to have accrued because of the failure of the rates permitted to be charged to earn the depreciation calculated to be necessary during the last three years.

The Board does not consider an allowance for many of these items appropriate in an application of this kind. They do not constitute elements of emergencies and more appropriately deserve consideration in the fixation of just and reasonable rates rather than "emergency"

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**Public Service Railway Company—Increase in Rates.**

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rates. The Board therefore does not approve of the schedule of rates filed by the company.

Nor is there, in the opinion of the Board, such an emergency present as would require it to fix any other rate in excess of the existing rate without consideration of all the elements recognized as being entitled to consideration in a proceeding to fix a just and reasonable rate. The rate proceeding which was begun by the Board and is now pending has consumed more than two years. Supplementing the vast amount of testimony as to value which has been taken in this proceeding, there has been filed with the Board the valuation fixed by the engineers engaged pursuant to the Legislative enactment of 1920. This proceeding must be terminated by the Board not later than July 14th. The case will necessarily have to be proceeded with as rapidly as possible and under all conditions a result based upon the investigation with a full consideration of the various factors necessarily requiring consideration for the fixation of a just and reasonable rate would be more just to both the public and the company than one based upon the few factors presented in and necessarily the only ones considered in emergency cases.

The Board will show, however, in what follows whether or not the present schedule of rates will produce a revenue sufficient to provide for those elements of cost contemplated in the O'Brien decision.

It will be pertinent to compare the results under a seven-cent fare (and a cent for a transfer) for 1920 and then to take up the company's estimate of the result of operations for 1921 under the same schedule (shown in P-9). This will be analyzed and the result of the analysis shown in parallel columns. It will not be necessary, in view of the conclusions reached, to give the exhibits in detail; but the income account condensed on the different bases will be grouped in Table I-A and B following:

Public Service Railway Company—Increase in Rates.

TABLE I-A.

INCOME STATEMENT UNDER 7-CENT FARE (1-CENT TRANSFER) FOR 1920 ACTUAL, 1921 AS ESTIMATED BY PETITIONER AND AS TAKEN BY THE BOARD (CENTS OMITTED).

	(1)	(2)	(3)	(4)
	1920 Actual Annual Report	1921 Est'd. by Petitioner in Ex. P-9	1921 Est'd. by Board taking Rev. from P-9	1921 Est'd. in light of 1920 experience
Revenue from Transportation.	\$25,980,422	\$27,287,830	\$27,287,830	\$27,568,934
Revenue from Other Operations,	612,196	592,000	592,000	664,869
<b>Total Railway Operating Revenue</b>	<b>\$26,592,618</b>	<b>\$27,879,830</b>	<b>\$27,879,830</b>	<b>\$28,233,803</b>
Railway Operating Revenue Deductions	22,403,346	24,001,003	23,493,331	23,493,331
Railway Operating Income....	\$4,189,072	\$2,978,827	\$4,384,499	\$4,738,472
Auxiliary Operations, Income.	9,110	6,000	6,000	6,000
<b>Total Operating Income.....</b>	<b>\$4,198,182</b>	<b>\$2,984,827</b>	<b>\$4,390,499</b>	<b>\$4,744,472</b>
<b>Total Non-Operating Revenues.</b>	<b>209,294</b>	<b>203,734</b>	<b>203,734</b>	<b>203,734</b>
<b>Gross Income</b>	<b>\$4,407,476</b>	<b>\$3,188,561</b>	<b>\$4,594,233</b>	<b>\$4,948,206</b>
<b>Income Deductions</b>	<b>5,152,924</b>	<b>5,237,731</b>	<b>5,237,731</b>	<b>5,237,731</b>
<b>Net Deficit</b>	<b>d \$745,448</b>	<b>d \$2,049,170</b>	<b>d \$643,498</b>	<b>d \$289,523</b>
Exclude depreciation	114,669	1,850,666	800,000	800,000
<b>Net surplus or deficit after excluding depreciation</b>	<b>d \$630,779</b>	<b>d \$198,504</b>	<b>s \$156,502</b>	<b>s \$510,475</b>

TABLE I-B.

CONDENSED SUMMARY OF OPERATING REVENUE DEDUCTIONS SHOWING THE DEDUCTIONS FOR 1920 ACTUAL, 1921 AS ESTIMATED BY THE PETITIONER IN P-9, AND AS MODIFIED BY THE BOARD'S ANALYSIS (CENTS OMITTED).

	(1)	(2)	(3) & (4)
<b>Operating Expenses—</b>			
Way and Structures.....	\$2,271,506	\$2,600,000	\$2,321,250
Depreciation of Way and Structures.....	53,135	1,398,956	600,000
<b>Total Expenses Way and Structures.....</b>	<b>\$2,324,641</b>	<b>\$3,998,956</b>	<b>\$2,921,250</b>
<b>Equipment</b>	<b>\$2,433,087</b>	<b>\$2,400,000</b>	<b>\$2,400,000</b>
Depreciation of Equipment	61,564	451,710	200,000
<b>Total Expenses, Equipment</b>	<b>\$2,494,621</b>	<b>\$2,851,710</b>	<b>\$2,600,000</b>
<b>Power</b>	<b>\$3,488,427</b>	<b>\$3,686,256</b>	<b>\$3,610,000</b>
Conducting Transportation	9,554,701	9,521,765	9,521,765
Traffic	960	1,000	1,000
General and Miscellaneous	2,401,123	2,422,177	2,422,177
<b>Total Operating Expenses</b>	<b>\$20,354,473</b>	<b>\$22,481,864</b>	<b>\$21,076,192</b>
<b>Taxes</b>	<b>2,033,243</b>	<b>2,419,139</b>	<b>2,419,139</b>
<b>Total Revenue Deductions</b>	<b>\$22,387,716</b>	<b>\$24,901,003</b>	<b>\$23,495,331</b>

## Public Service Railway Company—Increase in Rates.

In Table I-A the total operating revenues in column (1) are those shown in the petitioner's annual report; in columns (2) and (3) the total is that shown by the petitioner in Ex. P-9. In column (4) the following method is used: The ratio of the revenue in the first quarter of 1920 to the total for 1920 is first ascertained. The revenue for the first quarter of 1921 is then multiplied by this ratio and the result is shown in column (4).

In Table I-B in the first column are given the actual results of operations of the company for the year 1920. In that year the company charged to operating expenses and credited to depreciation reserve the amount of \$114,669 (two items). The net deficit would have been \$630,679 excluding this \$114,669. Under column (2) is set up the comparative figure for the same item as shown by the petitioner in its exhibit P-9. This indicates that the net deficit, after charging \$1,850,666 to depreciation, is estimated to be \$2,049,170; or, excluding this large charge for depreciation, the net deficit would be estimated to be \$198,504. In column (3) Table I-A, the operating revenues are taken as estimated by the petitioner in column (2). Railway operating revenue deductions (Tables I-A and I-B), however, are modified in some detail as follows:

Under Way and Structures, the company's estimate of work to be done is somewhat higher than would be necessary in an emergency and certain deductions derived from a study of the figures for prior years, are made from a number of the accounts shown in P-9 under the classification of Way and Structures; but with respect to the expense for removal of snow and ice, a considerable deduction is made. The expenditures for removing snow and ice for the year 1917 to 1920 were as follows (cents being omitted):

1917 .....	\$75,109
1918 .....	45,848
1919 .....	11,511
1920 .....	248,746

The figures for 1920 are abnormal, due to both the character of the winter and the scale of prices then effective. The average for the years 1917 to 1919, inclusive, approximates \$44,000, which indicates that a figure of \$75,000 might reasonably be taken for the cost of this item in average years. The total costs as taken by the Board for Way and Structures, exclusive of depreciation, is \$2,321,250, as compared with the similar figures for the year 1920 of \$2,271,506

## Public Service Railway Company—Increase in Rates.

and \$2,600,000, as shown by the petition in exhibit P-9. The Board, in columns (3) and (4) of Table I-B takes the figure of \$600,000 for depreciation of Way and Structures as contrasted with the company's estimate of \$1,398,956. The actual figure set up by the company in 1920 was \$53,135 for this item.

The total of expenses under the general heading of Equipment in P-9 is taken as \$2,400,000, exclusive of depreciation, as contrasted with actual expenses in 1920 of \$2,433,087. The Board takes the same figure of \$2,400,000 as shown in Exhibit P-9. The company (in Exhibit P-9) for depreciation of equipment sets up the figure of \$451,710, as contrasted with the amount set up in 1920 by them of \$61,534. The Board takes \$200,000 as this figure, which, added to the \$600,000 for depreciation of Way and Structures, aggregates a total of \$800,000 for depreciation.

For power the company's actual cost in 1920 was \$3,428,427. The company's estimate in P-9 was \$3,686,256. The comparison of the prices of coal assumed in P-9 with the prices paid by the company for the first quarter of 1921 indicates that the cost of power may be taken as in columns (3) and (4) (Table I-B) to be \$3,610,000. Other expenses and taxes are taken at the same figure in columns (2), (3) and (4).

The total of Railway Operating Revenue Deductions are shown in Table I-A and leave a Railway Operating Income varying from \$2,978,827, petitioner's estimate for 1921, to \$4,738,472, as shown in the modified estimate of the Board, these figures, of course, including the charge for depreciation as hereinbefore cited.

The net deficits under the different columns are as follows: The 1920 actual deficit was \$745,448, this being the book figure. As shown under P-9, the deficit is estimated to be \$2,049,170. Under the Board's modification of Exhibit P-9, and charging but \$800,000 in depreciation, the resulting deficit would be \$643,498; and estimating the revenue for 1921 in the ratio obtaining in 1920, the deficit would be \$289,525, subject, however, to a slight increase to provide for the increases in taxes from the larger revenue shown in column (4) as compared with column (3). If depreciation be excluded from the four columns (Table I-A), the last line will show that the deficit in 1920 (actual) would be \$630,779; the company's estimate for 1921 would have been \$198,504; the Board's estimate, assuming the revenue as in Exhibit P-9, will show a surplus of

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Public Service Railway Company—Increase in Rates.

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\$156,502 and after modifying the revenue in the light of 1920 experience, the surplus will approximate \$500,000 after allowing for adjustment in taxes based on revenue.

Even a casual inspection of the applicant's Exhibit P-9 would indicate that a large number of the classes of expenses are increased considerably above the amounts required to be spent in an emergency only, and that the company, in a great emergency, would not spend the amounts indicated in Exhibit P-9, nor would the expenses included in the Board's estimates be so large in such an emergency; but giving the company the benefit of the doubt of the larger expenditure, except so far as reduced in columns (3) and (4). column (4) indicates that the company might reasonably expect, if it continued to operate under the present fare, to be able to pay its operating expenses, including \$500,000 for depreciation, taxes and all fixed charges. For the five years ended December 31st, 1917, the charges to the depreciation reserve averaged about \$450,000 per annum, and for the eight years ended December 31st, 1920, the charges to the reserve for property retired averaged about \$365,000. The \$500,000 would be adequate to cover the average annual retirements under the higher of these two average amounts. It would appear, then, that its revenue will be entirely adequate during the next few months under the existing schedule of fares to meet such expenditures as are contemplated under the principles laid down in the O'Brien case upon which the petitioner relies.

This analysis indicates very clearly, then, that the company is not in such urgent need of revenue as would preclude its continuing furnishing service for the period of time required to complete the collateral case in which valuation is being considered. The Board is not satisfied from the proofs offered that the company is at this time in need of the relief to be afforded by the schedule as filed, nor is it satisfied that it should, at this time, be granted any further increase in the present schedule of fares.

The Board therefore finds and determines that the petition for emergency relief should be and is hereby dismissed, and the schedule of rates filed is disapproved.

Dated May 19th, 1921.

An appeal was taken from this decision to the Supreme Court. The decision of the Supreme Court follows:

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Public Service Railway Company—Increase in Rates.

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NEW JERSEY SUPREME COURT.

PUBLIC SERVICE RAILWAY COMPANY, *Prosecutor*,

vs.

BOARD OF PUBLIC UTILITY COMMISSIONERS, *Defendants*.

ON CERTIORARI.

1. An order made by the Board of Public Utility Commissioners requiring a public utility to set apart yearly a depreciation fund of a fixed amount, and its refusal therefore of a sufficient rate for services rendered to produce the necessary income for that purpose, is not the fixing of a just and reasonable rate.

2. The court has no power to fix the rate, for that is committed to the Public Utility Commissioners, but where the order made is not supported by the evidence, the court has the power to set aside the order and remand the proceeding to the Commissioners to fix a just and reasonable rate based on the evidence.

*Frank Bergen and Robert H. McCarter*, for the Prosecutor.

*L. Edward Herrmann, Frank H. Sommer, George L. Record*, for the Defendants.

Argued June Term, 1921, before Justices Trenchard, Bergen and Minturn.

The opinion of the court was delivered by

BERGEN, J. The prosecutor filed with the State Board of Public Utility Commissioners a schedule fixing its rate for transportation of passengers at ten cents for each person including transfers required by law, which was an increase of three cents where no transfer was given and of two cents where it was. The commission, by its order, suspended the effect of the increase, and after hearing made an order refusing its approval of the new schedule of rates. To review this order a writ of certiorari was allowed under which the record relating to it has been brought to this court. The proceeding is governed by subdivision (h) of Section 17 of "An Act concerning

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Public Service Railway Company—Increase in Rates.

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Public Utilities," P. L. 1911, p. 374, C. S. 1280, which provides that when a public utility increases its rates "it shall be the duty of said Board to approve any such increase, change or alteration upon being satisfied that the same is just and reasonable." This of course means that if the proofs show conclusively that the increase is just and reasonable it is made the duty of the Board to approve, for that is the legislative mandate. We think the evidence shows conclusively that a considerable part, at least, of the increased rate is just and reasonable and that the major part is required to pay the cost of operation and maintenance, and that, without additional income to make required repairs, they cannot be made, thereby endangering the lives of its passengers. It should be kept in mind that the public as well as the company are interested in the continuance of the service, and that it should be made as safe as possible for the public needs no argument, nor can it be doubted that its cessation or inefficient management would seriously injure the public, which it is the duty of the board of commissioners, as well as the Utility Corporation, to avoid if possible. Among the powers delegated the Commissioners is to require every public utility "To furnish safe, adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so" (Section 17 (b) of the Act, C. S. 1279), and also to carry a proper and adequate depreciation account which, with the income from the investment of the fund so carried, shall not be used otherwise than for depreciation, improvements, new constructions, extensions or additions to the property, (f) of the section last referred to. The carrying of such an account has been required of the prosecutor by the commissioners and thus becomes an element to be considered in fixing a just and reasonable rate for the services rendered. Under the statute, properly construed, the power to fix rates should be reasonably and justly exercised, having due regard to the object to be accomplished by the legislative control delegated to the Board of Utility Commissioners, which is a fair return for the necessary service rendered; the maintenance required by statute, or the legal requirements of the Board, as well as state and municipal taxes imposed, and a reasonable income on the capital invested. A rate which does not provide for the depreciation fund imposed by the Board, nor for the operating expenses of the Utility Company is not,

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Public Service Railway Company—Increase in Rates.

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in our judgment, a just and reasonable rate which the statute contemplates. The evidence clearly shows that the present rate under existing conditions will bankrupt the company as well as endanger the lives of its passengers for want of funds to make imperative repairs. To require a maintenance fund to be carried, and at the same time refuse an income to provide it, is, to say the least, a peculiar exercise of discretion under our statute relating to the power of fixing rates.

The Board in its report of its conclusion denies relief from these conditions, and treats the situation as an emergency which will soon pass. Why it so concludes is not apparent from the evidence when the evidence shows that for over three years the conditions, which produce threatened bankruptcy and lack of repair demanded, have not only continued but are constantly increasing. To call this situation an emergency and refuse relief for that reason is giving a meaning to the word emergency which neither our statute nor adjudged cases warrants. There is no evidence in this record from which it can be inferred that the present cost of operation and maintenance will not continue, and with it the so called emergency until its victim shall have collapsed to the great injury of its stockholders, and especially the public who depend upon it for transportation.

The present proceeding was instituted by the prosecutor which filed a schedule of increased rates with the board of commissioners and the latter gave public notice, after making an order suspending its effectiveness, of a public meeting, time and place being named, at which all persons who desired would be given a hearing as to the reasonableness of the proposed rate. At the hearing it was stipulated that if the rate proposed was not a just and reasonable one the Board, if it deemed any increase proper, might consider and determine what increase ought to be allowed. The relief was denied upon the ground that the conditions creating the deficit was the result of a sudden happening producing a crisis temporary in character, which the Board called an emergency. Why an increased tax, enhanced cost of labor, of operation, and of necessary repairs should be called an emergency soon to be assuaged like a sudden flood, is not apparent to us either from the evidence, or conditions of which we can take judicial notice, nor, as the Board did, can we assume that other conditions will shortly exist. Another reason given for the action of the Board is that no deficit in the cost of operation

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Public Service Railway Company—Increase in Rates.

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exists, based on the emergency theory, which it is claimed is justified by the opinion of Mr. Justice Swayze in *O'Brien vs. Public Utility Board*, 92 N. J. L. 44. We do not find in that opinion anything which justifies the inference, suggested by the commissioners, that the learned justice was dealing with an emergency condition. The only question determined by him was whether an increase in rates was justifiable under the condition then existing, and the reasons are equally applicable whether the increased costs of wages was due to an order of the U. S. Board or from any other cause. He was not dealing with a theory but with actual conditions, where the increase of proper costs of operation had advanced beyond income, and when the Board had fixed a rate only sufficient to provide for cost of operation, without considering a return on the capital invested. In support of the conclusions of the Board that the present rate is sufficient to pay cost of operation and fixed charges in the present emergency, and to show that there is no deficit for that purpose, it submits a schedule of actual conditions for 1920 and that estimated for 1921. The actual deficit for 1920 was \$630,799, allowing \$114,669 for maintenance instead of \$800,000 required by the order of the Board. The estimates for the year 1921 are rather speculative than reliable, and on this the Board concludes that there will be a surplus, not now, but at the end of the year, without making any allowance beyond \$800,000 for imperative improvements which the evidence shows will exceed at least \$1,200,000. So that assuming the estimate of the Board is correct there will be a deficit of \$400,000 if the service is to be efficient and safe for the public use, without taking into account the losses for 1918, 1919 and 1920, amounting to over \$1,600,000. If this be called an emergency it is one that needs prompt relief, and ought not to be postponed until the Board has reached a result in another case involving the fixing of a just and reasonable rate based on valuation. The prosecutor is entitled to cost of operation, and fair return on capital invested under the statute, and to have its rights determined on the case made by it in this proceeding.

To make an order requiring a public utility to set apart yearly a depreciation fund of a fixed amount and to prevent a compliance by refusing the income necessary for that purpose is not the fixing of a just and reasonable rate. The question is not a novel one, for in

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Public Service Railway Company—Increase in Rates.

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many municipalities in other states the rate has been fixed at ten cents, sometimes with a qualification that tickets of a given quantity shall be sold at a less rate, but all having a tendency to approximate that rate, but in this proceeding the Board did nothing along that line, it merely refused to do anything to advance the present rate which the evidence shows is not just and reasonable in view of existing conditions.

Chief Justice White, speaking for the Supreme Court of the United States in *Southern Iowa Electric Company v. City of Charlton*, 41 Sup. Ct. Rep. 400, said that the proposition was indisputable "That although the governmental agencies having authority to deal with the subject may fix and enforce reasonable rates to be paid public utility corporations for the services by them rendered, that power does not include the right to fix rates which are so low as to be confiscatory of the property of such corporations."

It is no answer to this critical situation to declare that the Utility Company is over-capitalized and suffering from that fact. The situation presented here is not a demand based upon a desire for profits upon the investment, but mainly for the vital purpose of enabling the corporation to pay its operating charges and upkeep and thus properly continue the services required by its charter.

This court has no power to fix the rate for that is committed to the Public Utilities Commissioners, but where the order made is not supported by the evidence the court has the power to set aside the order and remand the proceedings to the commissioners to fix a just and reasonable rate based on the evidence, and that was not done in the present proceeding. The order should be set aside and the matter remanded to the consideration of the Board in order that it may fix a just and reasonable rate based on the evidence in this particular proceeding, and for that purpose the order under review will be set aside and the proceeding remanded to the Board of Commissioners in order that they may approve or disapprove in whole or in part the proposed increase as they may determine, from the evidence of conditions existing, to be sufficient to meet the necessary cost of proper and efficient operation, as is required by the statute, as well as the cost of such necessary reparations, as the safety of the public demands.

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Public Service Railway Company—Increase in Rates.

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**No. 893.****IN THE MATTER OF THE INCREASE IN ITS SCHEDULE OF RATES FOR  
TRANSPORTATION BY THE PUBLIC SERVICE RAILROAD COMPANY.**

1. The appraised value of the physical property of the company as of December 31st, 1917, is \$2,514,563. New expenditures for capital purposes between that date and October 31st, 1920, were \$10,192.68, making a total present physical value of \$2,524,755.68. The outstanding securities amount to \$2,296,650.

2. The value of the physical property without any allowance for intangibles of any kind is in excess of the total amount of the securities issued.

3. Under the proposed rates the estimated operating revenues are approximately \$414,000. The operating revenue deductions are \$317,000, leaving an operating income of approximately \$94,000. The income deductions of approximately \$104,000 result in an estimated loss of more than \$9,000.

4. An analysis of the estimated operating expenses would indicate that they are excessive but not to the extent of materially affecting the result. The Board is satisfied the proposed rates are not unjust or unreasonable and will not produce an excessive return on the physical value of the property.

*L. D. H. Gilmour and E. W. Wakelee, for the Petitioner.*

On December 9th, 1920, Public Service Railroad Company filed with this Board a new schedule of rates increasing the rate for transportation on its railroad. These rates were suspended by the Board, and a hearing was called to examine into the justness and reasonableness of the same. Notice was given by the company by posting in its cars and publication. Notice was also given by the Board of the time and place fixed for the hearing. No one appeared in opposition to the proposed rates.

Petitioner operates a railroad, organized and operating an electric railroad under the General Railroad Act.

(a) From a point in the City of Elizabeth, County of Union, to a point on the road leading from Metuchen to Bonhamtown Corner, in the County of Middlesex;

(b) From a point known as Milltown Junction, in the road leading from Cranbury Turnpike to Milltown, in the County of Middlesex, to the City of Trenton, in the County of Mercer;

(c) A branch therefrom extending to the State Fair Grounds at Trenton.

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Public Service Railway Company—Increase in Rates.

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The two divisions of said road are connected by tracks of Public Service Railway Company. Connected with Division (a) of the said railroad and operated as a part thereof are the following branch lines:

(d) From a point in the Borough of Roosevelt, known as Chrome Junction to that part of the Borough of Roosevelt known as Chrome, and

(e) From a point in the Township of Woodbridge known as Port Reading Junction to Sewaren in said township.

The existing rate was filed with the Board of Public Utility Commissioners June 18th, 1918. The new rate is based on a charge of three cents per mile for transportation, with a minimum fare of ten cents. The present rate is two and one-half cents per mile with a minimum of ten cents.

The appraised value of the physical property of the company as of December 31st, 1917, as found by this Board is \$2,514,563. (Vol. VI, Reports Board of P. U. C., p. 368.)

The net expenditures for capital purposes between December 31st, 1917, and October 31st, 1920, were \$10,192.68, making a total present physical value of \$2,524,755.68. The outstanding securities amount to \$2,296,650. It will be seen that the value of the physical property without any allowance for intangibles of any kind is in excess of the total amount of the securities issued.

The application was filed upon the theory of the existence of an emergency. The value of the physical property, however, having been heretofore ascertained, and by stipulation of the company used in the present case, permits the consideration of the case on the broader aspect, in that the justness and reasonableness of the proposed rates might be tested with the value of the property as a basis and consideration of all other factors necessary.

The income account statement of the company for the year 1920 shows a loss after payment of operating expenses and income deductions amounting to \$66,395.81, and the statement for the year 1919 a net loss of \$85,313.97.

The company presents estimates showing the result of operation for the year 1921 under the existing rates, as well as under the proposed rates. A summary of these estimates shows: that the total estimated operating revenue from present rates would be \$347.793;

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Salem and Pennsgrove Traction Company—Increase in Rates.

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that the operating expenses would be \$314,919, leaving a net operating income of \$32,874. The income deductions comprising rent for leased roads, etc., amount to approximately \$104,238. This would result in a net loss of approximately \$70,000.

Under the proposed rates the estimated operating revenues are approximately \$414,000. The operating revenue deductions are \$317,000 leaving an operating income of approximately \$94,000. The income deductions of approximately \$104,000 result in an estimated loss of more than \$9,000.

An analysis of the estimated operating expenses would indicate that they are excessive but not to the extent of materially affecting the result. We are satisfied that the proposed rates are not unjust or unreasonable and will not produce an excessive return on the physical value of the property.

The schedule of rates filed by the company will therefore be allowed to become effective June 1st next, the company to post notices in its cars for a period of ten days prior thereto.

Dated May 19th, 1921.

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No. 894.

IN THE MATTER OF THE APPLICATION OF THE SALEM AND PENNS-  
GROVE TRACTION COMPANY FOR AN INCREASE IN RATES.

1. An electric railway company is authorized to increase its fare from seven cents to eight cents.

2. The increased rate is not calculated to yield to the company the revenue to which it is entitled upon the capitalization approved by the Board but is the maximum the traffic will bear.

*J. B. Colahan*, for the Petitioner.

The applicant company operates electric cars from a point within the City of Salem to a point within the Borough of Pennsgrove passing through the townships of Upper Penns Neck and Lower Penns Neck, in the County of Salem, a distance of fourteen and twenty-five hundredths miles. There are five fare zones on the line.

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Salem and Pennsgrove Traction Company—Increase in Rates.

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The company was formed and the road constructed in 1915 entirely with private capital. The securities were issued with the approval of this Board. When it was constructed there was in operation a large industrial plant at Kearney Point in which vast quantities of war munitions were manufactured, and the construction of the road was required for the transportation of employees to and from their homes to the plant.

During the years 1916 and 1917 the road was operated at a profit on a five-cent fare. On February 17th, 1920, a charge of seven cents was approved by this Board. The present application is for the approval of an eight-cent charge. Extensive notice of the application has been given to the public served by posting signs in the cars and advertising in the newspapers. No opposition has been made to the application.

It appears that in the years 1919 and 1920 the excess of operating expenses over operating revenues was \$403.91 and \$4,990.77 respectively. The net deficit after paying interest on the funded indebtedness of the company and amortization of the bond discount, was \$46,971.96 and \$60,981.57 respectively. Under its present operating revenue the company will not be able to meet the interest on its funded debt or even the taxes which will become due.

Since the cessation of the war the industrial plant heretofore referred to has ceased its activity and while temporarily engaged in manufacturing dyestuffs the number of employees engaged is very small. The future development of the plant is uncertain.

This has affected the traffic on the road as follows: the number of passengers carried decreased from 4,582,364 in 1918 to 2,773,390 in 1919 and 2,055,191 in 1920. It is probable that if the plant at Kearney Point were to remain practically idle the road would be obliged to cease operations. The officials of the road, however, are hopeful that activities at this plant will shortly be resumed, which will surely result in increasing traffic.

In the meantime the service afforded by the company to the residents of the communities served is maintained and it is desirable that it should be. The proposed rate of fare is not calculated to yield to the company the revenue to which it is entitled upon the capitalization authorized and approved by this Board. The rate, however, is the maximum which the officials of the company believe

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Ocean City Water Company—Increase in Rates.

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the traffic will bear as is evidenced by the following testimony of the superintendent:

Q. "You have discussed this matter freely with the local council down there and the municipal government?"

A. "I have."

Q. "And the Borough Government? What if any, as far as you have ascertained, is their attitude toward this increase?"

A. "They are favorable to it. They are favorable to the running of the road and want to see it run."

Q. "In your judgment a higher increase than one cent would be inadvisable to ask for."

A. "Yes."

Q. "You don't think the public would stand for more than one cent."

A. "I don't think they would."

Under these circumstances no reason appears to require the Board to withhold its approval of the rates sought to be approved.

Dated May 19th, 1921.

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No. 895.

IN THE MATTER OF PROPOSED INCREASE IN RATES BY THE OCEAN  
CITY WATER COMPANY.

In the absence of a valuation and of other elements which should be considered in a rate case an application for an emergency increase in rates is denied, it not being apparent that there is an urgent necessity for the increase to provide service.

*J. Fithian Tatem*, for the Petitioner.

*A. C. Boswell*, for City of Ocean City.

*Thomas R. Fort and R. C. Hicks*, for Ocean City Taxpayers League.

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**Railroad Rates—Sand, Gravel and Broken Stone.**

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The company asks that it be given a flat increase of 20 per cent. on its charges to individual users and 40 per cent. in its charges to the municipality for fire service. The operating expenses in 1920 increased \$6,600 over the preceding year. The company has outstanding \$286,000 in bonds and \$100,000 in stock. The proposed increases will bring to the company estimated additional revenue to the amount of \$8,200.

The total revenue of the company for the year 1920 was \$42,000. In addition to the payment of the interest on its funded indebtedness of \$286,000 the company has been paying a 6 per cent. dividend upon its \$100,000 capital stock. It intends in the proposed increase asked for to provide for dividends of 6 per cent. upon such stock.

This being an emergency application, the Board, pursuant to its declared policy in such cases, will not consider an increase in rates unless an appraisal of the physical property of the company is presented to the Board or the Board itself has made such appraisal, at least in the absence of convincing proof that there is urgent necessity for allowing such increase in order to provide service to the public.

Such urgency is not apparent in this case and there being no valuation before the Board all the elements which should be considered in a rate increase case are not present on this application. The Board will therefore deny the rates filed.

Dated May 19th, 1921.

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**No. 896.**

IN THE MATTER OF RATES CHARGED BY RAILROAD COMPANIES  
OPERATING IN THE STATE OF NEW JERSEY FOR THE TRANS-  
PORTATION OF SAND, GRAVEL AND BROKEN STONE BETWEEN  
STATIONS IN THIS STATE.

1. Contracts entered into between carriers and shippers are subject to the police power of the State and the existence of such contracts between carrier and shipper does not estop the carrier with the authority of the State from advancing such rates where the same become unreasonable.

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Railroad Rates—Sand, Gravel and Broken Stone.

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2. The character of the commodities transported, their weight, the space they occupy, the kind of equipment used, the service rendered, the value of the commodity itself and the damage or loss of injury liable in transportation, are all elements that must necessarily be considered in any determination seeking to ascertain the justness and reasonableness of a proposed rate. The average distance hauled and the service of loading and unloading are also elements.

3. From all the testimony presented, it is held that the imposition of 40 per cent. upon the rates existing under General Order 28 would be excessive, discriminatory, unjust and unreasonable as applied to these low grade commodities moving only short distances as is the fact within this State.

4. The imposition of 15 per cent. upon the rates existing and charged by the railroads prior to the increase authorized by the Interstate Commerce Commission in Ex Parte 74 would be just and reasonable.

5. The imposition of this percentage will remedy the discrimination caused by General Order No. 28, as between these commodities and all other commodities affected by that order, and will also bring the New Jersey rates into appropriate alignment with the rates on these commodities in adjoining States.

*Henry Wolf Bikle*, for Pennsylvania Railroad Company, West Jersey and Seashore Railroad Company, and railroads in general in New Jersey.

*Charles E. Miller*, for Central Railroad Company of New Jersey.

*E. H. Burgess*, for Lehigh Valley Railroad Company.

*W. J. Larrabee*, for Delaware, Lackawanna and Western Railroad Company and joint carriers.

*M. B. Pierce*, for Erie Railroad Company, New Jersey and New York Railroad Company, New York, Susquehanna and Western Railroad Company, also a number of the Committee of Counsel for Carriers.

*W. L. Kinter*, for Philadelphia and Reading Railway Company and Atlantic City Railroad Company.

*Kenneth H. Lanning*, for the Tuckerton Railroad Company.

*L. L. Shepard*, for the Raritan River Railroad Company.

*F. W. Schmidt*, for a Committee of Shippers in the Sand and Gravel Industry.

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Railroad Rates—Sand, Gravel and Broken Stone.

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*C. J. Fagg*, for Bound Brook Stone Company et als.

*Edmund Wilson*, for Jesse A. Howland et als.

*M. L. Berry* and *F. R. Austin*, for Ocean County Board of Freeholders et als.

*Wm. B. Mackay*, for John M. Kelly Contracting Company et als.

*Charles E. Dalrymple*, for Raritan River Sand Company.

*E. E. Reed*, for T. J. Wasser, State Highway Engineer, on behalf of the State Highway Department.

On July 29th, 1920, the Interstate Commerce Commission filed a report and order authorizing an increase of 40 per cent. on the interstate freight rates in the eastern group of railroads, which includes all the railroads within the State of New Jersey. Subsequently the railroad companies notified this Board of their intention to apply said increase to intrastate rates in order that they might conform to the interstate rates allowed by the Interstate Commerce Commission.

The Board called a conference with the carriers and representatives of shippers and shippers' organizations upon the question whether it should authorize the increase proposed in the intrastate rates.

Following the conference the Board on August 18th, 1920, filed a memorandum in which particular reference was made to the increases proposed in the rates applying to shipments of sand, gravel and broken stone used in road building and repair. The opinion was expressed that the increased rates should not be applied to intrastate shipments of these materials for the purposes mentioned unless it more clearly appeared that this would be just and reasonable.

The Board therefore recommended that these increases should not apply without further hearing and stated, "If the carriers so desire, the Board will fix an early date for further hearing as to these increases."

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. Railroad Rates—Sand, Gravel and Broken Stone.

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In lieu of accepting this recommendation the railroad companies proposed that the Board forthwith initiate an investigation with respect to the reasonableness of these rates, and agreed that in any case where the rates should be found by the Board to be unreasonable they would voluntarily be made retroactively effective from August 26th, 1920, to January 1st, 1921, such rates as the Board found to be reasonable.

This stipulation was extended by agreement subsequently to February 1st, 1921, and later to June 1st, 1921.

On September 16th, 1920, the Board initiated a proceeding "for the purpose of investigating whether the rates charged by the railroad companies operating in the State of New Jersey for transportation of sand, gravel and broken stone, between stations on the lines of the said railroad companies in the said State of New Jersey, are just, reasonable and non-discriminatory, and if the said rates, or any of them, are found to be unjust, unreasonable or unduly discriminatory, what rates should be fixed by this Board for the said railroad companies to charge."

The first hearing in this matter was held on October 11th, 1920, and subsequent hearings were held to afford opportunity for the carriers and protestants to examine and cross-examine witnesses and introduce evidence.

Among the protestants were numerous contractors who had entered into contracts with the State of New Jersey and municipalities within this State for the construction of highways within said State. This group objected to any increase in the freight rates on the particular commodities during the life of their contracts, and confined their testimony to proof of loss sustained by them on their respective contracts by reason of the increase in such freight rates.

There also appeared before the Board a number of shippers and associations of shippers of sand, gravel and crushed stone within the State of New Jersey, who protested against the increased freight rates as applied to these commodities, and contended that the same were unreasonable, and that they would in some instance be unable to compete with other shippers from without the State of New Jersey.

Jesse A. Howland also appeared before the Board objecting to the increased freight rates applicable to rip-rap stone being shipped by him from Hibernia, N. J., to Sandy Hook, N. J., and showed that

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Railroad Rates—Sand, Gravel and Broken Stone.

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in the summer of 1919 he had obtained from the General Freight Agent of the Central Railroad of New Jersey a freight rate on the movement of said stone between the points above mentioned. Testimony introduced on his behalf showed that the forty per cent. increase would cause him to sustain a great financial loss.

On behalf of the carriers it is contended that they are required in this proceeding to justify the 40 per cent increase only, and not the increased rate. Under paragraph H of Section 17, Article 2 of the Act creating the Board, P. L. Laws 1911, Chap. 195, in support, the case of *O'Brien v. Board of Pub. Util. Commrs.*, 93 N. J. Law, p. 587, is cited.

The Board does not construe the section of the statute relied upon, nor the case cited as so limiting the burden of proof; the justness and reasonableness of the rates must be sustained by the carriers. All of the evidence taken was directed to the rates resulting from the increase rather than to the percentage of increase alone.

The Interstate Commerce Commission, in a proceeding entitled Ex part No. 74, "in the matter of the application of carriers in official southern and western classification territories for authority to increase rates," authorized an increase in freight rates in the official classified territories of 40 per cent. (58 I. C. C. 220.) In discussing the rates on sand, gravel, rock and slag, the opinion calls attention to the fact that the increased rates applied by the Director General on these commodities under General Order No. 28 were in excess of the 25 per cent. increase generally applied and states:

"The carriers have indicated a willingness to promptly readjust rates in cases where hardships result from the general percentage increase, and their special attention is called to these commodities to the end that such action may be taken as the facts may seem to warrant."

On behalf of contractors who appeared, or who were represented before the Board in this matter, it was contended that by reason of contracts entered into by them prior to the putting into effect the increased rates, they were entitled to be allowed the then existing rate on all shipments made under these contracts until the fulfillment thereof. It has been settled that such contracts are always subject to the exercise of the police power of the state, and that the existence of such contracts between carrier and shipper does not estop the carrier

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Railroad Rates—Sand, Gravel and Broken Stone.

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with the authority of the State from advancing such rates where the same become unreasonable. *Western and Oregon Lumber Mfrs. Assn. v. Southern Pacific R. R. Co.*, 14 I. C. C. 61.

The question of the reasonableness of a rate has always been regarded as complex and largely a business question. Many elements must be considered. The final test to be applied is that the reasonable worth of the service rendered is a maximum of the permissible rate, and a fair return on the value of the property is a minimum. *Smyth v. Ames*, 169 U. S. 466.

In the present case the character of the territory served by the carrier, the extent and regularity of the service, and the character of the business must be considered. The character of the commodities transported, their weight, the space they occupy, the kind of equipment used, service rendered, the value of the commodity itself, and the damage or loss of injury liable in transportation, are all elements that must necessarily be considered in any determination seeking to ascertain the justness and reasonableness of a proposed rate. The average distance hauled and the service of loading and unloading are also elements.

Under General Order No. 28, while the rates on all commodities other than sand, gravel, rock and slag, were advanced 25 per cent., on these commodities, however, there was imposed a flat increase of 20 per cent. per ton, as applied to the entire sand, gravel and crushed stone business of the country and this may not have worked any hardship. On hauls on which the rate was 80 cents, or greater, the imposition of 20 cents per ton, was an advantage to the shipper over the imposition of a flat 25 per cent. increase, but for hauls producing a charge less than 80 cents the 20 cents per ton advance worked a proportionate disadvantage as the rate decreased. Where the haul produced a charge of 40 cents, the imposition of 20 cents per ton constituted a 50 per cent. increase instead of 25 per cent.

The testimony indicates that the average haul within the State of New Jersey is approximately thirty miles. The average rate in effect for hauls of this distance prior to General Order No. 28, was approximately 40 cents. Assuming an average haul of thirty miles and the average rate of 40 cents per ton under General Order No. 28, 20 cents per ton was added making the charge 60 cents, upon which it is proposed by the present tariff to impose 40 per cent., or 24 cents,

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Railroad Rates—Sand, Gravel and Broken Stone.

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making a total of 84 cents, or an increase over the normal rate of 110 per cent. The shippers seek in these proceedings not only to have declared the proposed tariff to be unjust and unreasonable, but also seek to have the rate imposed under General Order No. 28 declared to be unjust and unreasonable. We recognize the force of this suggestion, but the matter of making any adjustment of the charges collected by the carrier under General Order No. 28 is impossible; that increase was permitted to become and has been in effect, and was not challenged nor attacked before this Board prior to its becoming effective under the law.

While therefore the Board cannot adjust charges made under General Order No. 28 if they appear to be excessive, it can consider such excess in conjunction with its consideration of the justness and reasonableness of the proposed rates.

The representatives of the carriers contended that the superimposition of the 40 per cent. rate upon the rates existing under General Order No. 28, would only equalize the rates in New Jersey to the level of the rates in adjoining states. We do not find this to be the fact, although, for some distances, and on most of the railroads there were somewhat higher charges upon these commodities than in New Jersey.

From all the testimony presented, it is our opinion that the imposition of 40 per cent. upon the rates existing under General Order No. 28 would be excessive, discriminatory, unjust and unreasonable, as applied to these low grade commodities moving only short distances as is the fact within this State.

The Board therefore finds that the rates charged by the railroads for shipments of sand, gravel and broken stone, between points in the State of New Jersey including the rate applying to shipments of rip-rap stone complained of by Jesse A. Howland hereinbefore referred to, are unjust, unreasonable and unduly discriminatory.

We conclude that the imposition of 15 per cent. upon the rates existing and charged by the railroads prior to the increase authorized by the Interstate Commerce Commission in Ex Parte 74 would be just and reasonable.

The imposition of this percentage will remedy the discrimination caused by General Order No. 28, as between these commodities and all other commodities affected by that order, and will also bring the

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Vincentown Water Company—Increased Rates.

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New Jersey rates into appropriate alignment with the rates on these commodities in adjoining states.

The Board therefore decides that the carriers should make effective tariffs in accordance with this conclusion.

Dated May 25th, 1921.

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**No. 897.**

IN THE MATTER OF THE APPLICATION OF THE VINCENTOWN WATER  
COMPANY FOR INCREASED RATES.

The increased rates submitted are approved, it appearing that after paying operating expenses and taxes the net revenue will not provide a return of even six per cent. on the original cost of the property.

*Richard B. Eckman*, for the Petitioner.

*George W. Elbert*, for Township Committee of Township of Southampton.

The petition alleges:

That the present and proposed schedules of rates are as follows:

Annual rates charged quarterly:	Present Rate	Proposed Rate
Dwelling house—hydrant in yard or kitchen.....	\$5.00	\$6.00
Bath tub, with other.....	2.00	2.40
Second spigot.....	2.00	2.40
Water closet, with other.....	2.00	2.40
Wash stand, with other.....	1.00	1.20
Wash pave, with other.....	2.00	2.40
Wash pave, alone.....	5.00	6.00
Hotel bar.....	8.00	9.60
Hotel wash basin.....	5.00	6.00
Hotel wash basin, with other.....	2.00	2.40
Screw nozzle on house tap.....	2.00	2.40
Hydrant in double house when owned by one person.....	8.00	9.60
Barn tap, two head of stock, with other.....	3.00	3.60
Each additional head.....	1.00	1.20

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 Vincentown Water Company—Increased Rates.
 

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That the reason for the proposed increase is the need of additional revenue to meet (a) the increased costs of labor and materials required for the operation of its water supply system and necessary for the maintenance of its works and structures; (b) increased taxes; (c) stationary revenues; and (d) reasonable dividends to its stockholders; and to appropriate and provide a fund for depreciation and the replacement of such of its property as is necessary from time to time.

The petition proposes that the schedule of rates shall be effective January 1st, 1922, but the rates were suspended up to April 1, 1921.

Proof was furnished that notice was given of the increase in rates proposed and of the time and place of the hearing.

Upon learning that no increase was contemplated in the rates for fire service, counsel for the Township of Southampton withdrew all objection to the increases asked for.

The applicant submitted testimony showing that the original cost of its plant and equipment was \$15,000 and that the estimated cost to construct such a plant at the present cost of materials and labor would be \$41,000 and that the estimated value after deducting depreciation was \$21,000. The applicant's estimate (P-2) of the cost of service for the ensuing year was as follows:

Dividend 7 per cent. upon original cost \$15,000.....	\$1,050
Salaries: Engineer, \$250; Secretary-Treasurer, \$50.....	300
(Amounts much below the value of such service.)	
Gasoline and coal (at lower prices than now prevail) ..	350
Repairs (likely to be much greater).....	100
Tax .....	250
Expenses (Rent, Insurance, Telegram and Supplies)....	125
Sinking Fund $1\frac{1}{2}$ per cent.....	225
	<hr/>
	\$2,400

According to Exhibit P-3 the revenue produced by the existing schedule of rates and the increases effected by the proposed schedule are shown in Table I.

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 Vincentown Water Company—Increased Rates.
 

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TABLE I.

REVENUE PROVIDED BY EXISTING SCHEDULE OF RATES (P-3) AND INCREASES PROPOSED.

	Present Schedule	Annual Revenue	Increases from Proposed Schedule
121 Hydrants in yard or kitchen.....	\$5.00	\$605	\$121.00
42 Bath tubs .....	2.00	84	16.80
46 Second spigots .....	2.00	92	18.40
33 Closets with other fixtures .....	2.00	66	13.20
28 Wash stands with other fixtures..	1.00	28	5.00
36 Pave washes .....	2.00	72	14.40
8 Hydrants with double houses....	8.00	64	12.80
5 Barn taps, two head of stock....	3.00	15	3.00
8 Additional heads .....	1.00	8	1.60
Subtotal .....		<u>\$1,034</u>	
23 Fire Hydrants .....	15.00	345	
Pennsylvania Railroad contract..		60	
Morris Canning Company contract,		150	
Total .....		<u>\$1,589</u>	<u>\$206.80</u>

It will be noted from Table I that the annual revenue produced by the present rates is \$1,589 and that the revenue from rates which it is proposed to increase 20 per cent. aggregates \$1,034. Twenty per cent. of this latter figure is \$206.80, which, added to \$1,589, indicates that the revenue under the proposed schedule would be \$1,795.80. The company has revenue from investments of its depreciation fund which, in 1919, aggregated approximately \$50.

According to Exhibit P-3, the actual operating expenses and taxes for the year 1920 amounted to \$1,607.47. It is evident, therefore, that the revenue to be produced from the proposed rates will not exceed the operating expenses and taxes for the year 1920, by more than \$240.

From the testimony and exhibits submitted the Board does not believe that the net revenue of the company, after paying its operating expenses and taxes, will provide a return of even six per cent. on the original cost of the property shown hereinabove.

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Tintern Manor Water Co.—In re Extension of Mains.

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## CONCLUSIONS.

The Board therefore finds and determines that the petition for increased rates as shown in the body of this report should be and is hereby granted, effective from July 1st, 1921.

Dated May 26th, 1921.

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No. 898.

## BOROUGH OF FAIR HAVEN

VS.

## TINTERN MANOR WATER COMPANY —IN RE EXTENSION OF MAINS.

Upon a petition for an extension of mains by a water company it is held:

1. That extensions numbered A, B and C constitute reasonable extensions of the company's existing facilities providing the following conditions are complied with:

(a) With respect to the extension of main described under caption A, consisting of 3,950 feet of main with eight hydrants, and serving 36 houses, the company is to receive an assurance of a total revenue of \$1,154 per annum.

(b) With respect to the extension of main described under caption B, consisting of 700 feet of main with one hydrant, and serving eight houses, the company is to receive an assurance of a total revenue of \$214 per annum.

(c) With respect to the extension of main described under caption C, consisting of 550 feet of main with one hydrant, and serving four houses, the company is to receive an assurance of a total revenue of \$154 per annum.

(d) That the assurance of revenue recited under (a), (b) and (c) are to be in such form that the company could, if necessary, use them as a basis to negotiate a loan to enable it to finance either or all of said extensions.

(e) That with respect to each future customer along each of said extensions, the excess of annual revenue over \$7.10 shall be credited to the guarantee on said extension.

(f) When the total aggregate revenue from the customers on any of extensions A, B and C at the legal schedule of rates (after deductions indicated in (e) shall have been made) shall equal the assurance herein provided for, the assurance shall cease and determine.

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Tintern Manor Water Co.—In re Extension of Mains.

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2. That on proof that all the conditions as outlined in (1) with respect to any or all of the extensions have been complied with, the Board will, on application by the complainant within sixty days from date hereof, order the extension or extensions so guaranteed to be made forthwith.

*Theodore D. Parsons*, for Borough of Fair Haven.

*Edmund Wilson*, for Tintern Manor Water Company.

On May 18th the Clerk of the Borough of Fair Haven made the following representation to the Board:

"This Borough is supplied with water by the Tintern Manor Water Co. and for some time past the Council has been endeavoring to have the Company extend their mains in the Borough for additional service and fire protection to the people.

"Our committee has met with the Company several times and made their wants known and the Borough has even appropriated \$1,500 to have the water system extended, but the Company does not seem willing to take any direct action in the matter.

"The Mayor and Council have instructed me to lay the facts before you and ask you if you cannot be of some assistance to the Borough."

This complaint was referred to the Board's inspector for investigation, the result of which may be stated in the following extract from the report submitted in the matter:

"This complaint asks the Board to investigate the matter of extending the pipes of the water company as follows:

	On	From	To	Hydrants	Valves	Distance
A	Church	Front	Third	..... 2		1,100 ft.
	Third	Church	Leonard	.... 5		2,500 ft.
	Leonard	Third	Poplar	..... 1		350 ft.
				8	4	3,950 ft.
B	Lexington	Front	Second	..... 1	1	700 ft.
C	Locust	Front	Fisk	..... 1	1	550 ft.
				10		5,200 ft.

## Tintern Manor Water Co.—In re Extension of Mains.

"Each of these extensions will be treated separately.

"Investigation shows that the pressure maintained on the system of the Tintern Manor Water Company in the localities in question necessitates the use of Class 'B' pipe, which for efficient fire service should be at least 6 inches in diameter. The lowest bid obtained by the company for furnishing and installing 6-inch Class 'B' pipe is \$2.60 per lineal foot; 6-inch valves with box, \$40 each; 6-inch hydrants, \$73 each. The unit cost for the hydrants does not include the branch, since the same would be treated as 6-inch pipe and therefore charged at \$2.60 per foot. The bidder specified that these prices would hold good to September 11th, 1920. This work could be done somewhat cheaper by the company's own force, but it was explained by Mr. LaMonte, the company's manager, that it is practically impossible for him to spare any of the permanent force for work and it is likewise difficult to obtain temporary help of the character required.

"On the basis of these prices, the cost of the extensions would be as given in the table below.

Extension	Cost			Yearly Rev. Required			Yearly Guarantee	
	Mains	Hyds. Valves	Total	For Extension	For Service	Total	Munic. Hyds.	Domes. Per House
		etc.						
A .....	\$10,270	\$960	\$11,230	\$898.40	\$255.60a	\$1,154.00	\$200	\$26.50
B .....	1,820	140	1,960	156.80	56.80b	213.60	25	23.58
C .....	1,430	140	1,570	125.60	28.40c	154.00	25	32.25

a—36 houses. b—8 houses. c—4 houses.

"Following the Board's decisions in similar cases (notably the case of Bound Brook Oil-less Bearing Company v. Watchung Water Company) the company should receive an annual guarantee of 6 per cent. interest, 1 per cent. depreciation and 1 per cent. taxes, in addition to \$7.10 for the cost of furnishing service to each house requiring water, in order to warrant the construction of the extension. The guarantee is also included in the table above. \* \* \*

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Tintern Manor Water Co.—In re Extension of Mains.

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"It should be noted, however, that on extension B there are two houses which are at present being served through private service lines and on extension C there are three houses similarly served. It may not be possible or desirable to have houses already served share in the guarantee on the same basis as the ones without water. In any case, the revenues received from the houses now connected should be credited to the guarantee required from the extension in the same way that the revenue from the hydrants has been subtracted in the above computations.

"The service to the houses has been considered as being charged at flat rates. However, should any meters be required, the guarantee under metered service would be increased by approximately \$2.00 per year for each house metered.

"IT IS RECOMMENDED that the Tintern Manor Water Company extend its mains as requested by the Borough of Fair Haven provided it receive in proper form and for a period of at least five years revenue assurances in the amount specified in the body of this report."

A copy of this report was sent to the respondent with a request that the company advise the Board as to its position with respect to the recommendation contained in the report. The company responded as follows (in part):

"It appears that the proposed new work involves an extension of the company's pipes for a distance of 5,200 feet, with the installation of ten hydrants and six new valves. The estimated cost of this new work, according to the report, aggregates the sum of \$14,760. *This, however, does not include the cost of service pipe from the main to the curb, which the company must supply at its own expense.* The report concedes that if this new work is done the company should receive from that source at least an annual revenue of \$1,521.60. The financial condition of the company at this time does not reasonably warrant this outlay. Indeed, the resources of the company make it impossible to finance the work. \* \* \* The financial ability of the company to deal with this and kindred problems would be greatly strengthened should its present rate be increased. Application for such an increase

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Tintern Manor Water Co.—In re Extension of Mains.

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must of necessity be presently made, and will we believe, having due regard to the present cost of operation, maintenance and fixed charges, be favorably acted upon. We think it is clear that until this relief is granted and the present financial ability of the company augmented, no order requiring the Fair Haven extension can be reasonably made by the Board."

The answer further asked that, in case an order should issue, the guarantee as to future revenue be made by consumers in a tangible and definite form and one in which, in the event of default, payment can be enforced by the company, and further, that the period to be covered by the proposed guaranty should not be limited to five years but should extend until such time as the revenue at the legal rates of the company should aggregate \$1,521.60 annually.

In opening the case for his client, counsel for the respondent made the following statement:

"I represent the Tintern Manor Water Company. So that I may say to Your Honors, in order that you may perhaps save time in this investigation, that we are not complaining at all as to the details of the report, so far as they relate to the streets upon which the extension should be made, nor are we criticising the report as to the cost as ascertained by the Board's inspector. Our answer is that we are not financially able at this time, and for reasons which we propose to disclose, to carry out the recommendation of this order. That is the sole issue now, then, before the Board."

The burden of the testimony offered by the complainants was to the effect that some forty-eight families, a school house and a church were without adequate service of water and that there was no fire protection along the line of the proposed extensions A, B and C, in consequence of which insurance rates had been very materially increased in the recent past.

On its part witnesses for the company sought to emphasize the fact that it was financially unable to make the extension although they conceded that the service should and would be afforded to the complainants if the company were financially able to extend its mains to serve the complainants, or if rates were raised to provide a more adequate revenue.

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 Tintern Manor Water Co.—In re Extension of Mains.
 

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In the answer of the company the statement is made that the estimated cost does not include the service pipe from the main to the curb which the company must supply at its own expense. This is not an entirely accurate statement as will be seen by an examination of the table set forth in the inspector's report showing the annual revenue requisite to guarantee the company an amount sufficient to cover its proper costs on the extension. It will be noted that the yearly revenue required for the extension proper aggregates \$1,180.80 and the total revenue aggregates \$1,521.60. The difference between these two amounts is \$340.80 and the service is to be rendered to forty-eight houses. This amounts to \$7.10 for each house to be connected to the contemplated extensions. This \$7.10 covers, among other items, the cost of the installation of the service pipes from the main to the respective houses and may be set forth more fully in the following statement of costs:

One service pipe and connections.....	\$12.34
Cost of existing plant facilities.....	30.00
	<hr/>
Total investment devoted to customer's use.....	\$42.34
The annual cost per customer is shown below:	
6 per cent. interest and 1 per cent. taxes on \$42.34.....	\$2.96
4 per cent. depreciation on service costing \$12.34.....	0.49
1½ per cent. depreciation on plant capacity \$30.00.....	0.45
Cost of accounting, inspections, billing and collection.....	1.50
Cost of furnishing 40,000 gallons.....	1.70
	<hr/>
Total individual customer cost per annum, each.....	\$7.10

From this statement the company will observe that the cost of the service pipe (without meter) and the connections is taken at \$12.34 and the annual revenue at \$7.10 from each customer, this bearing the estimated cost to the company per annum for the service pipe and its connections.

It is conceded that water service is urgently needed by the complainants; that the Tintern Manor Water Company should render this service and would render this service if, as it claims, it were financially able to make the extension or if the rates permitted it to earn a sufficient revenue; so that the only question remaining is whether or not the Board is satisfied that the extension should be made under the statutory provisions or not. The company's wit-

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Tintern Manor Water Co.—In re Extension of Mains.

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nesses confess that it has made no application to the Board for relief from the rates alleged to be inadequate. The question of the adequacy of the rates is not in any way involved, therefore, and cannot be considered. It is solely a question as to whether service shall be extended to persons needing it providing they are willing to pay for it.

As the company will be required to invest the amounts necessary to make these three extensions, it is reasonable to require the guarantee to continue until, on each extension, the revenue at the legal rates of the company shall equal the amount herein indicated to be guaranteed. In computing revenue from each additional customer, the sum of seven dollars and ten cents (\$7.10) shall first be deducted from the total amount of his annual revenue and the remainder credited against the guarantee.

## CONCLUSIONS.

The Board therefore finds and determines:

1. That the extensions numbered A, B and C in the body of this report constitute reasonable extensions of the company's existing facilities providing the following conditions are complied with within sixty days from date hereof.

(a) With respect to the extension of main described under caption A, consisting of 3,950 feet of main with eight hydrants, and serving 36 houses, the company is to receive an assurance of a total revenue of \$1,154 per annum.

(b) With respect to the extension of main described under caption B, consisting of 700 feet of main with one hydrant, and serving eight houses, the company is to receive an assurance of a total revenue of \$214 per annum.

(c) With respect to the extension of main described under caption C, consisting of 550 feet of main with one hydrant, and serving four houses, the company is to receive an assurance of a total revenue of \$154 per annum.

(d) That the assurances of revenue recited under (a), (b) and (c) are to be in such form that the company could, if necessary, use them as a basis to negotiate a loan to enable it to finance either or all of said extensions.

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Bridgeton and Millville Traction Co.—Increase in Rates.

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(e) That with respect to each future customer along each of said extensions, the excess of annual revenues over \$7.10 shall be credited to the guarantee on said extension.

(f) When the total aggregate revenue from the customers on any of extensions A, B and C at the legal schedule of rates (after deductions indicated in (e) shall have been made) shall equal the assurance herein provided for, the assurance shall cease and determine.

2. That on proof that all the conditions as outlined in (1) with respect to any or all of the extensions have been complied with, the Board will, on application by the complainant within sixty days from date hereof, order the extension or extensions so guaranteed to be made forthwith.

Dated May 26th, 1921.

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No. 899.

IN THE MATTER OF THE APPLICATION OF THE BRIDGETON AND MILLVILLE TRACTION COMPANY FOR FURTHER INCREASE IN RATES.

1. The Board regards it as useless to consider any particular rate of return on the value of the petitioner's property as it does not appear possible to fix any schedule of charges which would enable it to obtain net income sufficient to pay a reasonable return on such value.

2. The Board will allow such rates as in its judgment the value of the service justifies and which are not higher than the traffic can reasonably bear.

3. An increase in fare from six cents to ten cents is disapproved, the Board holding that this would defeat its own purpose and the net income of the property would not be increased in the way necessary to preserve the service for the benefit of the riding public.

4. Increases in part of the system from six cents to seven cents and in another from six cents to eight cents are allowed. Fares of school children are fixed at one and one-half cents per mile and freight rates are adjusted.

*C. L. S. Tingley*, for the Petitioner.

*A. Stanger* and *H. Filthian*, for Bridgeton Chamber of Commerce.

*C. W. Hand*, for Township Committee of Commercial Township.

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Bridgeton and Millville Traction Co.—Increase in Rates.

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On December 22d, 1920, the Bridgeton and Millville Traction Company filed tariffs proposing increases in rates charged for both passenger and freight traffic. The increases proposed are as follows:

City lines: A fare of ten cents from any point in the City of Bridgeton to any other point in the city: free transfers being issued when necessary to accomplish this end.

Interurban: A fare of ten cents per zone where six cents was charged.

School tickets to be sold at the rate of 1.75 cents per mile, good for the purchaser thereof only within 30 days from date of purchase.

Freight Rates as follows:—

Package weighing 50 lbs. or less, 25 cents.

Package weighing from 50 to 100 lbs., 50 cents.

For each additional 100 lbs. or fraction thereof, up to 1,500 lbs., 10 cents per 100 lbs.

Freight in excess of 1,500 lbs., \$2.00 per ton.

The Bridgeton and Millville Traction Company has been before the Board on two previous occasions in connection with rate readjustments. In the case decided by this Board November 19th 1917, the company was allowed to discontinue the sale of six tickets for 25 cents, no other changes being permitted at that time in the schedules.

The company was again before the Board in a case decided April 24th, 1919, at which time the company proposed to increase its rate from five cents to seven cents per fare zone. The company proposed also an increase in school tickets but no increase was allowed in the charge for school tickets. An increase was also allowed in the freight rates.

From the testimony submitted in the present case it appears that the operating expenses of the company have continued to increase and the revenues on portions of its lines have decreased, notably on the line running to the park and on the line connecting with Bivalve.

#### I. VALUATION.

In the petition submitted in the present case reference is made to a valuation submitted in the form of testimony to the Board in a previous case. With reference to this, an examination of the testi-

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Bridgeton and Millville Traction Co.—Increase in Rates.

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mony submitted in the former case shows that definite conclusions were not reached with regard to valuation of the property. While the Board, therefore, has given consideration to such valuation in this proceeding, it does not accept it as conclusively proved.

In the present case, witness for the company testified that at foreclosure sale in 1897 the then existing property had cost \$200,000 and that since that time about \$550,000 had actually been spent in the construction of additions to the system and for purchase of equipment. The railway company also loaned \$250,000 to the Bridgeton Electric Company, this being used in the construction of a new power station from which the railway company obtains its power. The railway company, however, holds electric company's bonds to the extent of \$250,000 on which it receives the interest at five per cent., amounting to \$12,500 per year. It therefore appears quite clear that the street railway property has actually cost the present owners about \$750,000 not including the railway company's interest in the power station property.

## II. EARNINGS AND EXPENSES.

At the hearing testimony was submitted in the form of exhibits giving the detailed operating expenses for the year 1915 to 1920 and an estimate for the year 1921. A general comparative statement of operations from 1916 to 1920 was presented and marked Exhibit P-3 which is reproduced and forms part of this report. A comparative study has been made of the detailed operating expenses, which shows a gradual increase more marked particularly in the last two years. Coupled with the increase in expenses is an increase in operating revenues, which, however, have not kept pace with the increased expenses. Examination of Exhibit P-3, attached hereto, shows that the operating income available as a return on investment was approximately as follows: \$19,000 in 1916, \$23,000 in 1917, and in 1918 it had dropped to \$3,253; in 1919, due to an increase in the rates, the operating income had risen to \$6,652; but in 1920 the operating income account shows an absolute deficit of \$92.00. The corporate deficit for 1918 was \$8,492; in 1919, \$5,060; and in 1920, \$20,677. The interest included before arriving at the corporate deficit amounts

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Bridgeton and Millville Traction Co.—Increase in Rates.

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to but five per cent. on \$500,000 and the interest on unfunded debt is practically negligible.

It is only because of its interest in the electric lighting company that it was able to meet its operating expenses and taxes during the year 1920.

Analysis of the testimony indicates that the operations of the company have been conducted with at least a fair degree of efficiency. Advantage has been taken from time to time by readjusting schedules and routes to obtain needed business. With the decline in the use of street railway parks the operation of the line to the park owned by the company was discontinued beyond the built up portion of the city. The park property has been disposed of and the company has been recently allowed by this Board to definitely abandon operation over the section of track leading to the park and which was operated only during the season when the park was in use.

Another section of the line in Bridgeton running out Irving Avenue to the Central Railroad Station has deteriorated and as the city desired to pave a portion of the route the company proposed to abandon operations on Church Street and Irving Avenue and remove the tracks, but after objection on the part of the municipality the company has agreed to operate the line to the best of its ability.

The Bridgeton-Port Norris line, furnishing the only direct passenger service between Bridgeton and the oyster wharves at Bivalve, has never, at least on its lower end between Newport and Bivalve, been a paying proposition. The company has petitioned for approval of the abandonment of the line south of Newport which was distinctly unprofitable. There was, however, opposition to the abandonment by a representative of the Bridgeton Chamber of Commerce as the Central Railroad which connects with Port Norris and Bivalve does not operate passenger trains over the line. Partly due to changes in the oyster industry and partly to the growth in the use of private automobiles, the traffic has fallen off and this, coupled with the increased cost of operation, has proven to be a burden on the balance of the system. Testimony submitted in behalf of those who make use of this line was to the effect that the service rendered on the line was needed and that they were willing to pay any reasonable price in order to have it preserved. The Board has already in a separate proceeding denied its approval to the abandonment of the line but must

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**Bridgeton and Millville Traction Co.--Increase in Rates.**

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take into account the necessity of the collection of sufficient revenue to warrant the continued operation.

Testimony was also submitted as to the administrative expenses of the company and it has been found that the salary list is quite small and no criticism can be made of such charges.

### III. RATES AND SCHEDULES.

This company obtains revenue from the carrying of adult passengers, school children at reduced rates, and on the line from Bridgeton to Port Norris a small amount of freight business. The bulk of the revenue, however, is obtained from adult passengers on its various lines who now pay a fare of six cents for each fare zone traversed. The company has proposed to charge a rate of ten cents per zone but has stipulated that it would abide by any order of the Board fixing any other reasonable rate and would, at least, try out whatever rate the Board sees fit to prescribe.

Mr. Stanger, representing the Chamber of Commerce of the City of Bridgeton, stated as follows:

"The Chamber of Commerce is back of any proposition of the Bridgeton and Millville Traction Company, although it might appear we are on the other end, but the officers of that institution very firmly believe any such increase as is asked for by the Bridgeton and Millville Traction Company means practical suicide to the traction company. The people will not pay it and will not travel.

"COMMISSIONER TREACY: On the other hand, suppose it should appear that this company cannot get along without having some increase in rates. Do I understand that the Chamber of Commerce of Bridgeton are opposed to any increase in rate?

"MR. STANGER: No; they will not. Any reasonable increase, but we believe an increase from \* \* \*

"COMMISSIONER TREACY: You would rather that the company get a reasonable fare than that this line be abandoned or go into the hands of a receiver and ultimately be sold out.

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Bridgeton and Millville Traction Co.—Increase in Rates.

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"MR. STANGER: Yes, but we don't believe that the ten-cent increase is reasonable, both along the lines of income for the company and on the lines of the people paying the fare. We believe they would cease riding \* \* \*."

After full consideration of the testimony in this matter the Board is of opinion that an increase such as is proposed would not be conducive to the best interests of the company. Many of the present riders would consider the price charged in excess of the value of the service and would therefore not make use of it. The result would be that such an attempted increase would defeat its own purpose and the net income of the property would not be increased in the way necessary to preserve the service for the benefit of the riding public. It follows, however, from an analysis of the operating results shown in Exhibit P-3 that at least the cost of the service must be met by those making use of it and this involves some increase in the rates to be charged. The Board regards it as useless to consider any particular rate of return on the value of the property as it does not appear possible to fix any schedule of charges which would enable the company to obtain net income sufficient to pay a reasonable return on such value. The Board, however, will allow such rates as in its judgment the value of the service justifies and which are not higher than the traffic can reasonably bear.

The company expressed a willingness to try out any rate which the Board believes is reasonable and an increase in the rate charged for adult passengers from six to seven cents per zone over the system generally and a charge of eight cents per zone on that portion of the Bridgeton-Port Norris line lying from Newport to Bivalve will apparently bring to the company an increase in its gross revenue of approximately \$24,000.

The rates for carrying freight on the Bridgeton-Port Norris Line may be adjusted to the following:

25 cents on the first 100 lbs.

10 cents on each additional 100 lbs.

Where \$1.60 per ton is now charged, the rate may be made \$1.80 per ton.

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Bridgeton and Millville Traction Co.—Increase in Rates.

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## IV. CONCLUSION.

The Board therefore finds and determines:

1. That approval of the specific rates applied for is withheld.
2. That the petitioner is, however, entitled to an increase in rates on the state of facts set forth in the body of this report.
3. That it may file the following schedule of rates:

A rate of seven cents per zone for the City of Bridgeton, for each zone on the line between Bridgeton and Millville and for each zone on the Bridgeton-Port Norris line between Bridgeton and Newport. The rate to be charged over that portion of the Bridgeton-Port Norris line south of Newport (the non-paying portion of the line) shall be eight cents per zone.

The fare for school children may be increased to one and a half cents per mile.

The freight rate may be readjusted as follows:

25 cents for the first 100 lbs. or fraction thereof.

10 cents for each 100 lbs. additional.

Where \$1.60 per ton is now charged, \$1.80 per ton.

4. That the above schedule of rates may be effective twenty days after the filing thereof.

Dated May 31st, 1921.

## Bridgeton and Millville Traction Co.—Increase in Rates.

## Ex. P-3. BRIDGETON &amp; MILLVILLE TRACTION CO.

INCOME ACCOUNT FOR YEARS ENDING DEC. 31ST, 1916, 1917, 1918, 1919, 1920.

	1916	1917	1918	1919	1920
Revenue from Transportation—					
Passenger Revenue .....	\$117,375.80	\$127,036.74	\$124,345.90	\$140,924.32	\$148,800.91
Special Car Revenue .....	183.50	61.50	97.07	40.00	138.50
Mail Revenue .....	1,961.37	1,957.00	1,952.53	1,952.34	1,920.00
Milk Revenue .....	2,006.22	2,373.70	1,341.75	150.74	.....
Freight Revenue .....	4,939.84	5,228.22	5,021.07	5,372.14	5,945.37
Transfer Exchange .....	*14.10	*11.68	.....	.....	.....
Total .....	\$127,052.63	\$136,045.38	\$132,758.41	\$148,439.54	\$156,805.38
Revenue from Other Railway Operations—					
Station and Car Privileges .....	\$400.00	\$400.00	\$400.00	\$350.00	\$400.00
Rent of Tracks and Terminals .....	.....	.....	.....	.....	.....
Rent of Buildings and Other Property .....	.....	.....	.....	.....	.....
Power .....	731.94	877.71	748.40	333.24	22.27
Miscellaneous .....	.....	285.47	39.20	1.36	56.10
Total .....	\$1,131.94	\$1,563.18	\$1,187.60	\$768.49	\$478.37
Railway Operating Revenues .....	\$128,184.57	\$138,208.56	\$133,946.01	\$140,408.03	\$157,283.75
Railway Operating Expenses .....	102,621.05	107,789.57	120,180.67	130,392.00	154,074.89
Net Revenue Railway Operations .....	\$25,563.52	\$30,418.99	\$13,265.34	\$19,015.43	\$2,608.86
Auxiliary Operations Revenues .....	\$4,857.51	\$5,104.53	\$3,315.92	\$512.91	.....
Auxiliary Operations Expenses .....	1,716.04	1,537.36	1,936.49	802.58	.....
Net Revenue Auxiliary Operations .....	\$3,141.47	\$3,567.17	\$1,379.43	*\$280.67	.....
Total Net Revenue .....	\$28,704.99	\$33,986.16	\$14,644.77	\$18,725.76	\$2,608.86

## Bridgeton and Millville Traction Co.—Increase in Rates.

Taxes Assignable to Railway Operation.....	9,500.00	10,682.71	11,391.39	12,073.40	11,808.91
Operating Income .....	\$19,204.49	\$23,303.45	\$3,253.38	\$6,652.36	*\$9,200.05
Non-Operating Income—					
Income from Securities Owned.....	\$12,500.00	\$12,500.00	\$12,500.00	\$12,500.00	\$12,686.66
Miscellaneous Interest Revenues.....	\$55.30	1,273.15	929.17	902.25	1,381.46
Total .....	\$13,555.30	\$13,773.15	\$13,429.17	\$13,402.25	\$14,068.12
Gross Income .....	\$32,560.29	\$37,076.60	\$16,682.55	\$20,114.61	\$4,868.07
Deductions from Gross Income—					
Interest on Funded Debt.....	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
Interest on Unfunded Debt.....	25.00	29.50	175.00	175.00	222.87
Miscellaneous Debits .....					322.50
Total .....	\$25,025.00	\$25,029.50	\$25,175.00	\$25,175.00	\$25,545.37
Net Income .....	\$7,535.29	\$12,047.10	*\$8,492.45	*\$5,040.39	*\$20,677.30

\* Red on original Ex. P-3.

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Jersey Central Traction Co.—Removal of Tracks. Keansburg.

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**No. 900.**

IN THE MATTER OF THE APPLICATION OF THE JERSEY CENTRAL TRACTION COMPANY FOR APPROVAL OF REMOVAL OF TRACKS ON CARR AVENUE, KEANSBURG.

**ORDER.**

This matter having been heard, and it appearing that there is no demand for service upon the Carr Avenue line of the petitioner except during the summer months; that during the period in which there has been no operation of cars over the tracks the same have been covered with cinders by the municipality; that the service over the line is desired chiefly by the Keansburg Steamboat Company; that the said Keansburg Steamboat Company is willing to pay the cost of clearing the tracks, and it appearing to the Board that if the tracks are cleared it would be reasonable to require the operation of cars over the same, the Board HEREBY FINDS AND DETERMINES that the operation of such cars by the Jersey Central Traction Company on its Carr Avenue line during the summer months is necessary in order that adequate and proper service may be provided, and the Board HEREBY ORDERS AND DIRECTS that the said Jersey Central Company resume service on the said Carr Avenue line upon the same being cleared of cinders placed thereon, it being understood that the work of clearing the tracks shall be done by the Keansburg Steamboat Company.

This order shall become effective June 28th, 1921.

Dated June 7th, 1921.

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**No. 901.**

IN THE MATTER OF THE APPLICATION OF THE MEDFORD GAS COMPANY FOR FURTHER INCREASE IN RATES.

1. A total fixed capital of \$30,715 is fixed to which \$1,500 is added as working capital resulting in a rate base of \$32,215. On this a return of six per cent. or \$1,933 is allowed. The sum of \$1,610 is apportioned to metered gas service and \$325 to street lighting.

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Medford Gas Co.—Increase in Rates.

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2. To afford the required revenue a rate of \$1.70 in addition to a service charge of 25 cents per month for individual customers and a charge of \$30.00 per annum for street lighting are allowed.

*G. M. Hillman*, for the Petitioner.

The petition, filed December 8th, 1920, alleges:

That, under the present schedule, the company receives \$1.40 per thousand cubic feet of gas furnished individual consumers and a service charge of 25 cents per month for each consumer.

That the Township of Medford has fifty street lights for each of which it pays \$35 annually or \$1,750 per annum in all.

That the company desires to increase its charge to the individual consumers from \$1.40 per thousand cubic feet to \$2.00 per thousand cubic feet and to retain the present service charge of twenty-five cents per month to each individual consumer.

That the reasons for the proposed increase are that the cost of material used in the manufacture of gas has greatly increased; the cost of operating its plant and distribution system has greatly increased; the cost of the labor employed by said company has increased; the employees of the company demand an increase in wages and in order to retain said employees, it will be necessary for the company to increase their wages, or if said employees leave the service of said company, it will be impossible to replace them, save by paying wages largely in excess of the amount now paid by the company to its said employees. The receipts of the company are not sufficient to pay its operating expenses and the interest upon its indebtedness, and it has no revenue with which to make necessary repairs and improvements to its plant and to properly maintain the same or to pay any dividends upon its capital.

Proof was offered that notice had been given both by service on the Chairman of the Township Committee of Medford Township and by publication. At the hearing no one appeared in opposition.

The rates of the petitioner were under review by the Board, as shown in its report dated July 17th, 1919 (Board's Reports, Vol. VII, p. 289).

## Medford Gas Co.—Increase in Rates.

## I. VALUE OF THE PROPERTY USED AND USEFUL AS ALLOCATED TO CLASSES OF SERVICE.

The original securities issued by the company were \$25,000 principal amount of bonds and \$25,000 of stock, the stock, as stated in the prior application, having very little value. In the former case the Board's engineer submitted an estimate of the cost of reproducing the plant and property of the petitioner, which will be set forth in Table I following, and an allocation will be made between the property devoted to the service of metered customers and to the service of street lamps.

TABLE I.

CAPITAL USED AND USEFUL, ALLOCATED TO CLASSES OF SERVICE.

Ref.	Board's Report. Vol. VII, p. 270.	Total	Metered Gas Service	Street Light Service
Land .....		\$225		
Works and Station Structures.....		2,003		
Holders .....		0,187		
Furnaces, Boilers and Accessories.....		1,581		
Water Gas Sets and Accessories.....		3,795		
Purification Apparatus .....		1,405		
Accessory Equipment at Works.....		920		
Subtotal .....		\$16,860	\$14,055	\$2,811
Trunk Lines and Mains.....		0,900	0,750	1,150
Gas Services .....		\$2,723		
Gas Meters .....		2,358		
Gas Meter Installation .....		563		
		\$5,644	\$5,644	
Municipal Street Lights .....		1,200		\$1,200
Gas Tools and Implements .....		105	85	20
Total Fixed Capital .....		\$30,715	\$25,534	\$5,181
Working Capital .....		1,500	1,300	200
Total Value for Rates.....		\$32,215	\$26,834	\$5,381
6 per cent. on values above.....		1,933	1,610	323

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Medford Gas Co.—Increase in Rates.

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Testimony and the petitioner's annual reports indicate that no additions have been made to its property since this estimate was prepared and in view of the fact that no depreciation appears to have been earned, the cost to reproduce will be taken as a basis for rates. The total value, aggregating \$32,215, is apportioned, on the basis of use, \$26,834 to metered gas consumers and \$5,381 to street light service. Taking a return of six per cent. on this valuation indicates a total of \$1,933 of which \$1,610 is apportioned to metered gas customers and \$323 to street light service.

## II. OPERATING EXPENSES AND TAXES.

At the time the company prepared its petition, the costs of coal and oil were substantially at their peak. Since the hearing of the matter the company has submitted a statement of the cost of coal and oil for the earlier part of the year and of its anticipated costs for the remainder of the year. Before making an estimate of the operating expenses for the year, it will be necessary to approximate the amount of gas to be sold during the year. The company's annual report for 1920 does not give (on page 22) as required, the number of cubic feet of gas delivered to consumers during the year, but on page 34 does state the total amount delivered to the mains which aggregates 6,295,200 cubic feet. Dividing the total revenue received from domestic customers by the rate indicates that during 1920 these customers used 4,983 M. cubic feet of gas which was a gain of approximately four per cent. over 1919. Assuming a further gain of four per cent. in 1921 would indicate that metered customers would use 5,182 M. cubic feet of gas and the 50 street lights, if burning 22 M. cubic feet per annum, would consume 1,100 M. cubic feet, a total for revenue gas of 6,282 M. cubic feet. On the basis of the 1920 report, this would indicate that the company should deliver to the mains 6,500 M. cubic feet.

On the basis of this output and of the prices submitted in the company's statement filed April 14th, 1921, this indicates the following costs for coal and oil. The comparable figures for the same materials in 1920 are shown in parallel columns.

Medford Gas Co.—Increase in Rates.

	1921	1920
Boiler Fuel .....	\$900	\$997
Generator Fuel .....	2,185	2,214
Gas Oil .....	1,900	2,849

The costs of boiler fuel (bituminous coal) and of gas oil have both materially receded during the first quarter of the present year and pro tanto reduced the necessary expenses of the manufacture of gas. The petitioner's witness stated that it would be necessary to increase the wages of his gas maker, of his lamp lighter, and that he would like an increase himself, although he owned the majority of the stock of the corporation. Notwithstanding the contemplated increase in the wages of the lamp lighter, the company's witness asked that no increase be added to the \$1,750 contract price for street lamps for the reason that the area of the lighting district extended considerably beyond the portion of the area actually served by street lights. In view of all the circumstances the Board adds \$600 for increases in labor in its computations which follow but none for street lighting.

Testimony submitted at the hearing and inspections made by the Board's engineer indicate that the plant has been allowed to fall into disrepair to such an extent that, if not remedied, service may be endangered. The Board adds \$600 to be used annually for better plant maintenance and will expect it to be used for that purpose.

Except for the items just enumerated, the other operating expenses for the ensuing year are taken to equal those in 1920. Taxes based on gross revenue are adjusted in accordance with the fact. Table II will show the details of the estimate together with an apportionment between metered gas service and street light service and will also show the total cost of service for metered customers and for street light customers.

## Medford Gas Co.—Increase in Rates.

TABLE II.

ESTIMATED EXPENSES FOR ENSUING YEAR ON BASIS OF FOUR PER CENT. INCREASE  
IN METERED SALES OVER 1920, AND OF PRESENT PRICES FOR FUEL AND OIL.

Ref.	Company Total	Metered Gas Service	Street Light Service
Boiler fuel .....	\$900		
Anthracite coal .....	2,185		
Gas Oil .....	1,900		
Additional Labor, \$600; Plant Rehabilitation, \$600 .....	1,200		
Other Production Expenses as in 1920....	1,400		
<b>Total Production Expenses .....</b>	<b>\$7,585</b>	<b>\$6,370</b>	<b>\$1,215</b>
Transmission and Distribution.....	100	90	10
Street Lights .....	440		440
General and Miscellaneous, excluding Amortization .....	215	200	15
<b>Total, excluding Amortization .....</b>	<b>\$8,340</b>	<b>\$6,660</b>	<b>\$1,680</b>
Amortization .....	500	415	85
<b>Total Operating Expenses .....</b>	<b>\$8,840</b>	<b>\$7,075</b>	<b>\$1,765</b>
Local Taxes .....	175	150	25
	<b>\$9,015</b>	<b>\$7,225</b>	<b>\$1,790</b>
6 per cent. on \$32,215 .....	1,933	1,610	323
	<b>\$10,948</b>	<b>\$8,835</b>	<b>\$2,113</b>
Add Franchise and Gross Receipts Tax to provide for 5.44 per cent. total.....	631	509	122
	<b>\$11,579</b>	<b>\$9,344</b>	<b>\$2,235</b>
Deduct revenue produced by service charges,	748	748	
	<b>\$10,725</b>	<b>\$8,596</b>	<b>\$2,235</b>
Cost per M. cubic feet (5,182 M. cu. ft. sold) .....		1.66	
Cost per Street Light (50 total) .....			44.70

It is apparent from Table II that on a fairly strict analysis metered customers should pay \$8,596 for metered gas or at the rate of \$1.66 per M. cubic feet plus a service charge, and street lights should pay \$44.70 each. As the present service charges average about fifteen cents a thousand and the current rate is \$1.40, the average rate for metered gas is \$1.55, and Table II indicates an increase of 26 cents.

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Medford Gas Co.—Increase in Rates.

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The present rate for street lamps is \$35 per year per lamp, whereas the indicated cost shown in Table II is \$44.70. There is some merit in the claims of the company with respect to the fact that the street lamps cover only a minor portion of the lighting area upon which the cost is levied, and it appears fair to the Board to not disturb the present cost for street lighting service and to permit the company to charge \$1.70 per thousand in addition to the service charge. This will permit it to earn the six per cent. as calculated. If it is necessary to increase the wages of the lamp lighter, an adjustment should be negotiated with the authorities based upon such increase.

## III. CONCLUSIONS.

The Board therefore finds and determines:

1. That the rates filed are unjust and unreasonable and disapproves the same.
2. That the petitioner is, however, entitled to an increase in rates upon the state of facts set forth in the body of this report.
3. That it may file the following schedule of rates:

For Domestic Gas Sales:

For gas actually consumed at the rate of \$1.70 per thousand cubic feet, net (in addition to the existing service charge).

For Municipal Street Lights served at present:

\$35.00 per annum each, payable in equal monthly instalments.

4. The above schedule of rates may be effective for gas sold on and after July 1st, 1921.

5. The filing by the company of the increases herein suggested will be taken as a stipulation that abrogation or modification of the said increases in rates may be made as and if conditions as indicated by operating results both as to revenue and the character of service rendered warrant.

6. Beginning at the effective date of the rates herein indicated as just and reasonable, if filed, the company is to render to the Board monthly reports showing the operating revenues, operating deductions, excluding amortization, non-operating income, income deductions and balance available for general amortization, dividends and surplus and also the amount appropriated for general amortization, together with

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Cape May Illuminating Co.--Improvement in Service.    Increased Rates.

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a comparison with the figures for the corresponding period of the preceding year. This statement may preferably follow the form shown in the annual report for gas utilities, page 21, income statement: 22, lines 1 to 11, operating revenues; 25, lines 27 to 37, with amount appropriated for amortization Acct. 495, stated separately under VI. And the Board will retain jurisdiction of the increases herein approved for the purpose of modifying same as and if the conditions change.

Dated June 10th, 1921.

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**No. 902.**

CAPE MAY ILLUMINATING COMPANY--1. IN RE COMPLIANCE WITH  
INSPECTOR'S RECOMMENDATIONS WITH RESPECT TO IMPROVEMENT  
IN SERVICE.    2. IN RE APPLICATION FOR INCREASED RATES.

1. It appearing that the service rendered by the petitioner has been improved, consideration is given to its application for approval of increased rates.

2. The results of operations during the past ten years indicate that the accrued depreciation in plant has not been earned as a whole and that the value new should be taken as a basis for rates. For this purpose the sum of \$193,500, which includes working capital, is assumed.

3. Unaccounted for gas amounting to approximately 38 per cent. of the average output in the years 1919 and 1920 does not show efficient management, and such inefficiency should not be charged to the consumers. In estimating the unaccounted for gas, 6,846 M. cu. ft. is allowed in a total production of 32,300 M. cu. ft.

4. A return of 6 per cent. is allowed on a rate base of \$193,500. Total operating expenses are estimated as \$50,385 and taxes at \$4,500. The total arrived at including the return is \$66,475. A deduction is made of \$1,500 for miscellaneous revenue, leaving \$64,975, which it is estimated amounts to \$2.572 per thousand cubic feet of gas sold.

5. A schedule of rates is fixed providing a minimum charge of seventy-five cents per month and a price per thousand cubic feet of \$2.55 for the first 5,000 cubic feet sold with decreases for larger quantities consumed.

*C. L. S. Tingley*, for the Company.

*L. T. Stevens*, for Cape May City.

*Henry H. Eldredge*, for West Cape May.

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Cape May Illuminating Co.—Improvement in Service. Increased Rates.

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The petition alleges:

That it is engaged in the manufacture and sale of gas in the city of Cape May and the borough of West Cape May, to both of which due notice was given by service of a copy of the company's application and by publication in newspapers of general circulation in the territory.

That the proposed tariff, which is to become *effective April 4th, 1921*, is as follows:

Consumption Rate—

For the first	5,000 cu. ft. @	M. cu. ft. Gross	\$2.50	Net	\$2.40
For the next	5,000 cu. ft. @	M. cu. ft. Gross	2.40	Net	2.30
For the next	5,000 cu. ft. @	M. cu. ft. Gross	2.35	Net	2.25
For the next	5,000 cu. ft. @	M. cu. ft. Gross	2.30	Net	2.20
For all over	20,000 cu. ft. @	M. cu. ft. Gross	2.25	Net	2.15

Discount—

Consumer will be billed at the gross rates, and the difference between the gross and net rates will constitute a discount for prompt payment if paid on or before the tenth day after date shown on bill, which represents date bill is rendered.

To the above rates for gas consumed will be added a

Readiness-to-Serve Charge—

Each connected customer shall pay a readiness-to-serve charge of \$3.00 per annum for gas served through a three- or five-light meter. For customers served through a meter of larger capacity, the yearly service charge will be increased twelve cents for each one light increase in capacity above the five-light meter. Responsible all year customers may pay one-twelfth of fixed service charge monthly. Seasonal customers must pay the annual charge in a single payment unless otherwise agreed with the company's representative.

That the proposed increase will yield no more than sufficient to pay operating expenses and interest on funded debt with no surplus from which to pay interest on floating debt or dividends on the capital stock.

The Board suspended the effective date of the proposed tariff pending hearing.

This report will deal first with the character of service being rendered by the applicant. In 1919 and 1920 the Board's inspector, in written reports, called attention to defects in the character of service rendered by the applicant and made certain recommendations with a view to improving same. These reports recommended a thorough

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**Cape May Illuminating Co.—Improvement in Service. Increased Rates.**

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overhauling of the gas generating apparatus, installation of a new gas condenser and additional purifiers at Cape May, also the installation of a high pressure transmission system to reinforce the low pressure system in Cape May and West Cape May. The company's attention was also called to the somewhat limited boiler capacity of the plant.

The character of the service afforded by the applicant has been the subject of hearing before the Board. In his opening remarks before the Board in the present case, counsel for the applicant stated that the company had complied with all the recommendations in the inspector's reports of 1919 and 1920 except that with respect to the high pressure system which at the date of the hearing was not quite completed but was expected to be completed within thirty days. The applicant claimed that, with respect to the recommendation that additional boiler capacity should be installed, the company was able to carry its peak load with either of the two boilers now installed by making gas during the entire twenty-four hours in case either of the boilers should be out of commission and that in view of this fact the company should be excused at the present time from complying with the recommendation in this respect, especially as it had made large expenditures to improve the service and had suffered from deficits in operation.

It was admitted that the service in the past few years has been inadequate but it was claimed that, with the completion of the high pressure main reinforcement, the plant would be able to supply good service even during the peak load in the summer time. It was finally agreed that the application with respect to rates should rest until the Board's inspector should have made a further examination of the company's plant upon notice from the company that the entire work contemplated had been completed.

On May 19th the Board's inspector visited the plant of the applicant and made a detailed report in which he stated:

“\* \* \* that the plant appears to be in good operating condition and ready to take care of the demands during the coming summer season.

“\* \* \* Summing up, it would appear that the company has complied with all of the recommendations of the Board's inspector, and in addition has installed a number of low pressure mains and made repairs to the present mains. An exam-

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Cape May Illuminating Co.—Improvement in Service. Increased Rates.

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ination of the charts obtained from the company's recording pressure gauge which is located at the office on Washington Street indicates a marked improvement in pressure conditions at this point since the high pressure line has been completed and cut into the low pressure system. These charts, however, only indicate the pressure at this point and a pressure during a time when the output is considerably below the maximum. The company has agreed to make a record of pressure conditions at various points in the system and submit the charts to the Board's inspector.

“\* \* \* The Board's inspector made a test of the heating value of the gas supplied by the company on May 19th, 1921. The result of the test indicated an average total heating value of 578 B. t. u. The Board's rules require a minimum of 525 B. t. u.”

#### IN RE INCREASED RATES.

It appearing that the character of the service rendered by the applicant has improved to such an extent that good service may be anticipated in the coming season, this report will now deal with the Application for Increased Rates.

#### I. VALUE OF THE PROPERTY USED AND USEFUL.

In a former application for increased rates the applicant submitted a valuation of its property (Board's Reports, Vol. VI, p. 353). The total value submitted as of June 1st, 1918, was \$162,254, which included an item of \$4,588 for materials and supplies. Deducting this leaves the value now of \$157,666 for fixed capital. The net additions for the year 1918 were \$1,468 and taking one-half of this to complete the year 1918 would indicate net additions of \$734 for that half year: the net additions for 1919 were \$4,780 and for 1920 \$21,101, making a total of \$184,281 for the value of fixed capital as of December 31st, 1920. With working capital taken at approximately five per cent. of fixed capital, this would indicate a total value as of December 31st, 1920, of approximately \$193,500 value new.

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Cape May Illuminating Co.—Improvement in Service. Increased Rates.

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## II. ACCRUED DEPRECIATION.

Testimony indicates that the original plant of this company was installed many years ago but the present management had no details with respect to the accrued depreciation in said plant or as to whether the rates charged for gas had been such as to allow the accumulation of an adequate reserve for depreciation. With a view to securing enlightenment on this point the annual reports of the applicant from 1911 to 1920 inclusive have been examined. Assuming five per cent. for working capital, the *average* value of the property has been \$156,000 during this period and the net revenue per annum has averaged \$3,629. These figures indicate that the company, out of rates, has been able to provide but 2.33 per cent. for return on capital and for amortization of depreciation. Even though the company may have had larger earnings in previous years, this computation leads the Board to conclude that the results of operations during the last ten years would indicate that the accrued depreciation in plant has not been earned as a whole and the value now should be taken as a basis for rates. This report will assume for this purpose a value new of \$193,500 (which includes working capital).

## III. OPERATING EXPENSES AND TAXES FOR ENSUING YEAR.

As a preliminary to estimating the fair operating expenses under efficient management, the amount of gas to be sold and manufactured must first be estimated. The annual reports of the applicant show that the years 1919 and 1920 are entirely abnormal with respect to amount of unaccounted for gas. For the years 1916 to 1918 inclusive the company manufactured an average of about 29,100 M. cubic feet, of which 6,169 M. cubic feet was unaccounted for gas, this being an average of about 21 per cent. of gas made. For the years 1919 and 1920, however, on an average output of 41,069 M. cubic feet the unaccounted for gas amounted to 15,742 M. cubic feet, or approximately 38 per cent. unaccounted for gas. This does not show efficient management of the plant nor should such inefficiency be charged to the

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Cape May Illuminating Co.—Improvement in Service. Increased Rates.

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consumers. The unaccounted for gas per inch-mile of main for the first three years in question approximated about 80 M. cubic feet. During the last two years this approximated 200 M. cubic feet per inch-mile of main. The Board estimates the amount of gas to be sold and to be manufactured as follows:

Metered gas sales .....	25,263 M. cu. ft.
Street light gas (eliminated).....	
<hr/>	
Total revenue gas .....	25,263 M. cu. ft.
Used by company (1919) .....	191 M. cu. ft.
<hr/>	
Gas to be accounted for.....	26,454 M. cu. ft.
Unaccounted for gas.....	6,846 M. cu. ft.
<hr/>	
Total gas to be made.....	32,300 M. cu. ft.

In this estimate the company will be held to the efficiency obtained in this plant prior to 1919. By further improving the condition of the main it is believed that the amount of unaccounted for gas herein assumed can be decreased.

COAL AND GAS OIL.

In Exhibit P-4 the applicant set forth the cost of its generator fuel, boiler fuel, gas oil and power for blower. An examination of the items indicates that owing possibly to incorrect plant reports a confusion was made between boiler fuel and generator fuel. The power for blower in Exhibit P-4 is taken at \$3,300, and the power was furnished for the manufacture of 40,069 M. cubic feet of gas. In view of the improved efficiency contemplated in the amount of gas hereinabove estimated to be made, the amount of gas to be made will be some 7,000 or 8,000 M. cubic feet less and less power will be needed for the blower. The Board takes the figure of \$2,700 for this item. The corrected figures for coal and oil will be set forth in Table I following:

## Cape May Illuminating Co.—Improvement in Service. Increased Rates.

TABLE I.

SHOWING OPERATING EXPENSES AND TAXES FOR ENSUING YEAR AS ESTIMATED  
BY THE APPLICANT AND MODIFIED BY THE BOARD TOGETHER WITH THE  
REVENUE REQUIRED TO EARN SIX PER CENT. ON \$193,500.

	Estimate of Company Condensed (Ex. P-4)	Modified Estimate	Per M. cu. ft. Sold
<b>Production Expense—</b>			
Generator Fuel .....	\$5,880	\$7,980	
Boiler Fuel .....	4,200	1,955	
Power for Blower.....	3,300	2,700	
Gas Oil .....	10,556	10,430	
Other Plant Expense .....	14,200	14,200	
Subtotal .....	\$38,136	\$37,265	
Less residuals credit .....	900	900	
Total Production Expense .....	\$37,236	\$36,365	\$1.439
Transmission and Distribution Expense...	4,000	4,000	0.158
Commercial Expense .....	4,000	4,000	0.158
New Business Expense.....	200	200	0.008
General and Miscellaneous Expense.....	3,800	3,800	0.151
Total excluding Depreciation.....	\$49,236	\$48,365	\$1.914
Depreciation .....	2,450	2,000	0.079
Total Operating Expenses.....	\$51,686	\$50,365	\$1.993
Taxes .....	4,500	4,500	0.178
Total Revenue Deductions.....	\$56,186	\$54,865	\$2.171
6 per cent. on \$193,500.....		11,610	0.460
Total Revenue .....		\$66,475	\$2.631
Less Miscellaneous Revenue.....		1,500	0.059
From gas sales without service charge.....		64,975	2.572
Gas sold, M. cu. ft. ....		25,263	

The other items of out-of-pocket expense set forth in P-4 appear to conform to the costs to be expected during the ensuing year. On the present peak of high costs the Board will take the figure of \$2,000 for depreciation instead of \$2,450 as set forth in P-4. The modified estimate indicates total revenue deductions of \$54,865 for operating expenses and taxes. Adding to this six per cent. return on the value of \$193,500 makes a total revenue to be provided of \$66,475. De-

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Cape May Illuminating Co.—Improvement in Service. Increased Rates.

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ducting miscellaneous revenue estimated at \$1,500, leaves the amount to be provided from gas sales exclusive of any service charge of \$64,975 equivalent to \$2,572.

The company applied for a fixed service charge at the rate of \$3 per annum for three- and five-light meters, estimated to produce \$4,050 per annum; this is equivalent to sixteen cents per thousand cubic feet. This added to the base net rate of \$2.40 is equivalent to \$2.56 per thousand cubic feet. Representatives of the municipalities entered objections against the imposition of the service charge applied for by the company and it was suggested that a minimum bill of seventy-five cents a month would be less likely to create friction with the customers served by the applicant. In similar cases the Board has omitted the service charge where there was serious objection to it. In the conclusions the fixed service charge will be eliminated from the schedule of rates and a modified schedule suggested in which a minimum bill will be included. The revenue produced by such minimum bill will, it is believed, be sufficient to provide for the necessary revenue to make the final net rate \$2.55 per thousand cubic feet of gas consumed.

#### IV. CONCLUSIONS.

In reaching its conclusion upon this case the Board has in mind the urgent insistence of the representatives of the municipalities that their paramount interest is that service should be continued and their agreement that the Board might fix whatever rate in its judgment might be necessary for the company to continue to render adequate service. Cape May, which is the principal territory supplied by this company, is a summer resort. The service is, therefore, very largely seasonal. The company, however, must maintain a plant of sufficient capacity to supply the peak demand created by the summer season. For the rest of the year the demand upon the company's service is comparatively small. Nevertheless, the company is required to maintain its plant ready to serve to the full capacity during the winter months with the necessary overhead expenses for those months as if the demand for service continued undiminished. This makes the condition of the company somewhat exceptional and requires, in order that the company should continue to maintain service, that it

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Cape May Illuminating Co.—Improvement in Service. Increased Rates.

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be accorded a rate higher than would be necessary in territory not affected by seasonal variations.

1. The Board, therefore, in view of the fact that the main consideration of the representatives of the municipalities is that a sufficient rate be accorded the company to enable it to continue its service, will require that the service charge, as requested by the municipalities' representatives, be dispensed with and will permit the establishment of the following rates:

For the first	5,000 cubic feet	\$2.55 net per M. cubic feet.
For the next	5,000 cubic feet	2.45 net per M. cubic feet.
For the next	5,000 cubic feet	2.40 net per M. cubic feet.
For the next	5,000 cubic feet	2.35 net per M. cubic feet.
For all over	20,000 cubic feet	2.25 net per M. cubic feet.

The minimum bill to be rendered any customer for a full month's service is seventy-five cents (75c.) per month.

2. The schedule of rates as filed is unjust and unreasonable and the Board disapproves of the same.

3. The schedule of rates suggested in paragraph (1) may become effective for gas consumed between the usual meter readings in June and in July, 1921 (usually known as the July sales).

4. The filing by the company of the increase herein suggested will be taken as a stipulation that abrogation or modification of the increase in rates may be made as and if conditions as indicated by operating results both as to revenue and the character of service rendered warrant.

5. Beginning at the effective date of the rates herein indicated as just and reasonable, if filed, the company shall render to the Board monthly reports. These reports are to show the operating revenues, operating deductions, excluding amortization, non-operating income, income deductions and balance available for general amortization, dividends and surplus, and also the amount appropriated for general amortization, together with a comparison with the figures for the corresponding period of the preceding year. This statement may preferably follow the form shown in the annual report for gas utilities, page 21, income statement; 22, lines 1 to 11, operating revenues; 26, lines 27 to 37, with amount appropriated for amortization, account 495, stated separately under VI. And the Board will retain jurisdiction of the increase as herein approved for the purpose of modifying same as and if the conditions change.

Dated June 10th, 1921.

Carl A. Becker—Operation of Auto Bus.

No. 903

IN THE MATTER OF THE APPLICATION OF CARL A. BECKER TO  
OPERATE AN AUTO BUS ON THE WEST ORANGE LINE.

1. The Legislature has made the subject of jitney transportation a matter of legislation at various times since the year 1916 and the legislation it has enacted in regard thereto sanctions the jitney system and establishes it as a legislatively authorized method of transportation.

2. While the Legislature has placed all street railways under the jurisdiction of this Board, it has expressly refused to so place jitneys licensed before March 15th of this year and operated over their April 6th routes, by limiting its power of regulation solely to such as should be licensed after March 15th.

3. The policy of this Board in applications presented to it will be to approve all licenses or permits granted by the municipalities in renewal or substitution of all licenses or permits existing prior to March 15th unless it can be affirmatively shown that conditions pertinent to the consideration of the necessary factors have so changed as to make either an increase or decrease in the number necessary.

*George F. Seymour, Jr.*, for the Petitioner.

*L. D. H. Gilmour* and *E. W. Wakelee*, for Public Service Railway Company.

This is an application for the approval by the Board of a license granted to the applicant to operate an auto bus, commonly known as a jitney, over a route, part or all of which is also the route of a street railway line.

The bus, for the operation of which approval is asked, was duly licensed by the Cities of Newark and Orange and the Town of West Orange prior to March 15th, 1921, between the City of Newark and the Town of West Orange in Essex County, such licenses having been granted to the then owner, who continued to operate it after that date, but who has since transferred his bus to the applicant. The latter now makes application for our approval for the operation of said bus in accordance with the consent of the municipalities granted to him since March 15th, 1921. If the permission requested be granted by this Board it will not increase the number of buses that were in operation on the route in question before March 15th, but

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Carl A. Becker—Operation of Auto Bus.

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should permission be refused the number of buses in operation on that route on March 15th will be diminished.

Such jurisdiction as the Board has over the matter of jitney regulation is conferred by Chapter 149 of the Laws of 1921, which is an amendment to Section 15 of the Public Utility Act of 1911. It provides that the term "public utility" shall, in addition to the utilities described in the Public Utility Act of 1911, include every "auto bus, commonly called jitney, the route of which in whole or in part parallels upon the same street the line of any street railway or traction railway." By amending act also a second paragraph is added to Section 15 of the Public Utility Act as follows:

"2. Nothing herein contained shall extend the powers of the Board of Public Utility Commissioners to include any supervision and regulation of, or jurisdiction and control over, the operation of any auto bus, commonly called jitney, over its present route, under and in accordance with the consent of the municipal authorities granted therefor prior to March fifteenth, one thousand nine hundred and twenty-one, by the owner of such consent on said date, or under and in accordance with the renewal of such consent granted to such owner as aforesaid, for further operation by him, upon the expiration of the time limit set forth in such consent."

The language of paragraph 2 clearly indicates that the legislature intended that the Board should have no jurisdiction or control over any jitney licensed and operating over the route traversed by them on and prior to March 15th, 1921, but that such jurisdiction and control should be had and so exercised by the Board only as to jitneys and owners of jitneys licensed after March 15th to operate on routes on which a street railway line exists. One question here presented is whether or not the Board has jurisdiction over the case of a jitney licensed by the municipality and operating prior to March 15th, but transferred since that date to a new owner. The Board is of the opinion that it has jurisdiction over such cases.

In the exercise of its judgment, however, upon such applications, the Board will give due consideration to what it considers the legislative policy and intent with regard to the limitation or curtailment of the jitney system of transportation. The express exclusion from the jurisdiction and control of this Board of such jitneys as were in

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Carl A. Becker—Operation of Auto Bus.

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operation on the 15th of March, 1921, would seem to indicate that not only should the holders of licenses to operate jitneys be protected in the privilege theretofore granted to them, but that the legislature was satisfied that the public convenience and necessity required the number of jitneys that were in operation on that date. We think it must be assumed, therefore, that the legislature was not in favor of the curtailment of the jitney transportation facilities as such facilities existed on March 15th, but had in mind the regulation and control of any increase of it in so far as the increased number of jitneys occupied street railway routes and competed therewith. Our opinion in this respect is based upon not only the second paragraph of the Act of 1921, but also upon the previous history of jitney legislation in this State. That the legislature regards the jitney system of transportation as a proper one and required to serve the public is apparent not only from the fact that it refused to curtail the amount of such transportation in the Act of 1921 as the same existed on March 15th, but also from the fact that it has been enacting laws since 1916, the effect of which has been to give the jitney, which prior to the year 1916 was without legislative recognition, the authority and sanction of the law in the same manner as every other system of transportation. The Act of 1916, Chapter 136 (P. L. 283), defines the auto bus, known as the jitney, and prohibits operation of it in any city until the owners shall have obtained consent of the body having control of public streets therein and shall have filed an insurance policy in the sum of \$5,000 against loss from liability imposed by law upon the owner of such jitney because of death or bodily injuries occurring by reason of the use of such bus upon the public streets. It further provided for the filing monthly of statements of the gross receipts from the business of said jitney and the payment to the city treasurer of said city of 5 per cent. of said gross receipts as a monthly franchise tax, and penalties were provided for the failure to comply therewith. In 1917 an act was passed to regulate the operation of jitneys in fourth class cities. By Chapter 89 of the Laws of 1920, the governing body of every municipality is given power to pass ordinances to license and regulate jitneys and their owners and fix the fees and prohibit the operation of jitneys unless such ordinances are complied with.

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Carl A. Becker—Operation of Auto Bus.

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The legislature, therefore, has made the subject of jitney transportation a matter of legislation at various times since the year 1916 and the legislation which it has enacted in regard thereto sanctions the jitney system and establishes it as a legislatively authorized method of transportation. Nowhere in any of such legislation is there discernible any intent to curtail the amount of jitney service except in so far as the power given to municipalities to license and regulate can be inferred to express such intent.

There are, therefore, in many cities of the State, two systems of street transportation, the electric railway and the jitney, recognized by and enjoying the equal sanction of the law. Indeed, if either system can be said to be favored by the legislature, it would seem to be the jitney, because while the legislature has placed all street railways under the jurisdiction of the Board, it has expressly refused to so place jitneys licensed before March 15th of this year and operated over their April 6th routes, by limiting its power of regulation solely to such as should be licensed after March 15th.

The Board is but an instrument of the legislature and should endeavor to carry out the legislative intent as determinable from the legislative acts.

The policy of the Board in applications presented to it will be to approve all licenses or permits granted by the municipalities in renewal or substitution of all licenses or permits existing prior to March 15th unless it can be affirmatively shown that conditions pertinent to the consideration of the necessary factors have so changed as to make either an increase or decrease in the number necessary.

In the present case, as already indicated, however, the granting of the application would not add to the facilities existing on the route in question on March 15th, 1921. Mr. Joseph Crawford, who has charge of the licensing and operation of jitneys in the City of Newark, testified that in his opinion the exigencies of travel justified a continuance of the number of jitneys in operation on March 15th, 1921; he further testified that the city officials had made a survey of the jitney situation on this route and had determined that the number of jitneys required by public convenience was thirty-five. As above stated, the approval of the substitution asked for in this case will not increase that number. Considerable other testimony was introduced both by the applicant and by the Public Service Railway Company. Con-

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Carl A. Becker—Operation of Auto Bus.

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sidering all of the evidence and having in mind the legislative intent as expressed by the enactments above referred to, the Board is of the opinion that the application should be granted.

An order will therefore be entered in accordance with this determination, granting to the applicant a certificate of public convenience and necessity.

The Board takes this occasion to state its view with regard to the method of procedure in applications for the Board's action on jitney licenses. There seems to be a misapprehension on the part of some municipal officials, as well as the jitneurs, as to whether the initiatory step should be made by application to this Board or by application to the municipality. Such jurisdiction as the Board has is conferred by Section 24, Chapter 195 of the Laws of 1911, the act creating the Board. This section provides:

"24. No privilege or franchise hereafter granted to any public utility as herein defined, by any political sub-division of this State, shall be valid until approved by said Board, such approval to be given when, after hearing, said Board determines that such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests, and the Board shall have power in so approving to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests may reasonably require."

It is apparent, therefore, that this Board has no jurisdiction or power to act except upon a privilege, franchise or license granted by the municipality. It is only after such grant by the municipality that the Board can act and the question then before the Board is whether or not it shall decide that such privilege or franchise is necessary or proper for the public convenience and properly conserves the public interest.

The Board at this time deems it appropriate also to state, for the information of jitneurs who may have received municipal licenses but who have not had such licenses approved by the Board, that such licenses are invalid without the Board's approval and that attempts to operate under such licenses without application on the part of the holders of such licenses made to and approved by this Board are illegal.

Dated June 13th, 1921.

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City of Hoboken—Operation of Jitneys.

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**No. 904.****IN THE MATTER OF OPERATION OF JITNEYS IN THE CITY OF  
HOBOKEN.**

1. From the undisputed evidence submitted that there are twice as many seats on the trolley cars, and in jitneys, as are required for passenger service, and that the frequency of this transportation is as great as necessity requires and safety demands, the Board is of the opinion the necessity does not require additional jitney service as same will not add to the comfort and convenience of the riders, but on the contrary will add to the inconvenience of others who have to use the streets or cross the same.

2. Approval of licenses to operate additional jitneys on Washington Street between Fourteenth Street and Hudson and Manhattan Tube Terminal, Hoboken, is therefore denied.

*William J. Hanley*, for the Petitioner.

*Edmund W. Wakelee* and *L. D. H. Gilmour*, for Public Service Railway Co.

Application was made by William J. Hanley, Esq., representing twenty-six jitneurs, for approval of licenses granted by the City of Hoboken to operate on Washington Street between Fourteenth Street and Hudson and Manhattan Tube Terminal, Hoboken, a distance of approximately a mile. After notice, a hearing was held at the City Hall, Hoboken, on Wednesday, May 18th, 1921. The evidence submitted by the petitioners showed that there are at the present time one hundred and twenty-five jitneys on this street. Several witnesses testified that additional licenses were necessary, owing to the fact that the jitneys and trolley cars were insufficient to accommodate the number of people who desired transportation on these streets.

Application to the City of Hoboken in a number of said cases had been made previous to the enactment of the Elliot Law, Chapter 149 of the laws of 1921, which placed authority to approve under the jurisdiction of the Board of Public Utility Commissioners of New Jersey, and while some of the jitneurs were running their cars still the City Commissioners of Hoboken did not officially approve the granting of the licenses in question until April 26th, 1920.

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City of Hoboken—Operation of Jitneys.

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However, the counsel for the jitneurs made no contention for the validity of these licenses, because of their having been applied for prior to March fifteenth, and in reply to a question of one of the members of the Board, stated that the only question before this Board is as to whether or not the public convenience and necessity require the use of additional jitney service.

Engineers representing the Public Service Railway and Engineers representing the Public Utility Commission had each separately made a traffic check of the number of passengers carried by trolley cars and jitneys. The evidence discloses that the southbound trolley cars carried in one day 5,055 passengers with 13,069 seats, while southbound jitneys carried 7,960 passengers with 14,398 seats. The average headway of trolley cars was 2.79 minutes and that of jitneys 21.6 seconds. On the northbound cars there were 5,215 passengers with 12,623 seats, and on northbound jitneys 7,457 passengers with 14,230 seats. The average headway of such cars was 2.88 minutes and that of jitneys 22.2 seconds. During rush hour the average headway of trolley cars was 1  $\frac{2}{3}$  minutes and that of jitneys ten seconds.

The president of the Jitney Owners' Association of Hoboken testified that, in his opinion, there were sufficient jitneys now licensed to give all the service required for the convenience of passengers.

From the undisputed evidence submitted that there are twice as many seats on the trolley cars and in jitneys as are required for passenger service and that the frequency of this transportation is as great as necessity requires and safety demands we are of the opinion the necessity does not require additional jitney service as same will not add to the comfort and convenience of the riders, but on the contrary will add to the inconvenience of others who have to use the streets or cross the same.

The number of jitneys licensed and in operation on this route, as above indicated, on March 15th, was 125. As the entire distance of this route from Fourteenth Street, Hoboken, to the Hudson Terminal is about sixteen blocks, this number of jitneys, if kept in operation as they are presumed to be, would mean that there are eight jitneys in each block, four going north and four going south. We cannot conceive of any condition requiring a greater number than this in view of the testimony above referred to.

The applications for approval of permits submitted therefore are hereby denied.

Dated June 13th, 1921.

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Asbury Park and Other Municipalities—Operation of Auto Buses.

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**No. 905.****IN THE MATTER OF APPLICATION OF EDWARD STRANO, HARRY WEST,  
JOSEPH GRASSO AND SAMUEL ALDERELLI TO OPERATE AUTO  
BUSES IN ASBURY PARK AND OTHER MUNICIPALITIES.**

Approval of licenses to operate auto buses is denied where it appeared that none of the applicants had licenses to operate from the local municipalities nor were their buses in operation on March 15th, the date on and after which under the law applications of this character came within the Board's jurisdiction, and evidence showed ample accommodation for the public.

*Harry R. Cooper*, for Borough of Belmar.

*William C. Webb*, for the Applicants.

*George B. Cade*, for Atlantic Coast Electric Railway Company.

This is an application by Edward Strano, Harry West, Joseph Grasso and Samuel Alderelli for the consent of this Board to operate motor buses over a route in the City of Asbury Park, Township of Neptune and the Boroughs of West Grove, Bradley Beach, Avon and Belmar, more particularly described in the petitions filed as follows:

“Beginning at the corner of Emory Street and Cookman Avenue in the City of Asbury Park, from thence running along Emory Street to Mattison Street, thence along Mattison Street two blocks to the Asbury Park railroad station, thence south on Cookman Avenue to Main Street, thence south on Main Street to the city line of Asbury Park, thence continuing south on Main Street through the Township of Neptune and the Boroughs of West Grove, Bradley Beach, and Avon to the southerly line of Avon, thence still south on Main Street, designated, however, F Street, in the Borough of Belmar, to the corner of said Main or F Street and 16th Avenue, returning northerly over the same route.”

The applicants have licenses from the City of Asbury Park but none are required from the other municipalities.

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Trenton and Mercer Co. Traction Corporation—Increase in Rates.

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This route parallels upon the same street practically in its entire length the street railway line operated by the Atlantic Coast Electric Railway Company. It appeared from the testimony adduced at the hearing that none of these applicants had licenses to operate from the local municipalities nor were their buses in operation on March 15th, the date on and after which, under the law, applications of this character came within the jurisdiction of this Board. It further appeared that none of these applicants had been operating jitney buses over this route for several months prior thereto. The evidence showed that the practice had been in the past to operate these buses during the summer months when the traffic was heaviest and to discontinue them when the traffic fell off during the winter, these municipalities being largely seasonal resorts.

It further appeared from the testimony that the Atlantic Coast Electric Railway Company, which operates over the route in question, has recently very materially improved its tracks and rolling stock and is now in a position to give adequate service to the public on this route. Furthermore, traffic checks, in evidence, show that there is ample accommodation for all of the public desiring to travel and that the company can now, with its improved facilities, keep pace with the increases in travel normally to be expected during the summer months.

In view of this situation and assuming that the railway company will afford adequate service during the height of the season, the Board is of the opinion that the public convenience does not now require additional transportation facilities upon this route, and the applications will therefore be denied.

Dated June 15th, 1921.

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No. 906.IN THE MATTER OF THE PROPOSED INCREASE IN RATES OF THE  
TRENTON AND MERCER COUNTY TRACTION CORPORATION.

1. In considering a proposed increase in fare by a street railway from seven cents to ten cents the Board had before it estimates of the value of the company's property ranging from \$3,957,056 to \$5,000,000.

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Trenton and Mercer Co. Traction Corporation—Increase in Rates.

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2. Operating revenues for the year 1920 amounted to \$1,401,863; operating expenses and taxes to \$1,248,244, leaving a net operating revenue of \$153,619, to which is added \$4,315 non-operating income.

3. If the company is allowed an increase of one cent in the rate of fare the increase in net revenues will be approximately \$195,000. There should be deducted from the \$10,000 additional tax to be paid on account of increased gross receipts, leaving \$185,000 net.

4. The estimated net increase of \$185,000 added to the net income for 1920 results in a sum of \$343,000 which approximately is the estimated amount that would be obtained from an eight cent fare.

5. The foregoing sum is nearly a seven per cent. return on the highest estimate of value of the company's property and approximately eight per cent. on the lowest.

6. The Board is not satisfied that a fare of ten cents is just and reasonable. If such fare should be charged and the number of passengers as estimated by the company should be carried the return to it would be more than it is fairly entitled to receive. If the result of such fare should materially curtail use of the service its value would be lessened to the public and the company might not obtain more revenue than would accrue under an eight cent fare.

7. The Board holds the existing rate of fare of seven cents to be unreasonable and authorizes a fare of eight cents to be charged with a continued charge of one cent for a transfer.

Appearances:

*Edgar W. Hunt*, of Katzenbach & Hunt, for the Petitioner.

*Henry M. Hartman* and *Merritt Lane*, for City of Trenton.

*H. T. Satterthwaite*, for Lawrence Township.

*C. R. Ruhlman*, for Borough of Pennington.

*E. C. Long*, for Hopewell Township.

*Richard Stockton, 3d*, for Princeton Borough and Princeton Township.

This proceeding was begun as an emergency proceeding upon the theory of the case of *O'Brien v. Board of Public Utility Commissioners*, but as the case progressed, counsel for the applicant stipulated that the valuation heretofore taken by the Board in other proceedings of this applicant should be considered in this case. It was further stipulated by counsel for the company that if the Board disapproved the rate filed, viz., ten cents, it might fix whatever rate in the judg-

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Trenton and Mercer Co. Traction Corporation—Increase in Rates.

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ment of the Board would be just and reasonable. Pending the progress of the case, the appraisal made by the experts employed by the valuation commission pursuant to Chap. 351 of the Laws of 1920, was filed with the valuation commission, and by it with this Board.

By an amendment to the Act of 1920 (Chap. 351, Laws of 1921) such valuation is made presumptive evidence in any proceeding before this Board, provided, however, that the person or persons who made such valuation be subjected to cross-examination. The act also provides that any other valuation may be considered. We have before us, therefore, the following situation: A case submitted upon the theory of the O'Brien case, or war emergency doctrine, enlarged in scope by the stipulation of the applicant to a case in which not merely the elements of an emergency case were presented but all the elements necessary to the fixation of a just and reasonable rate, are to be ascertained after a consideration not only of the facts presented in the applicant's petition and the applicant's evidence, but in the Board's valuations in the past, and the Ford, Bacon & Davis valuation furnished by the valuation commission, under the acts aforesaid.

## VALUATION.

In accordance with the stipulation, the Board will therefore consider the valuation heretofore fixed by it in its reports of December 13th, 1915, and December 26th, 1919. The Board's determination in the first case was reviewed by the Courts and its action in that case sustained. The following is quoted from the decision of the Board of December 26th, 1919:

"In earlier proceedings affecting the rates charged and sought to be charged by the company, the Board had before it for its consideration several appraisals including one presented by the company. In the present proceedings the company offered a new inventory and appraisal made for it by the J. G. White Engineering Company. By stipulation all of the testimony which was before the Board in the former proceedings was made a part of the record in the present proceedings, so that the Board now has before it four appraisals, viz., the so-called 'Betts' Appraisal,' the 'Brackenridge Appraisal,' the company's first appraisal and the J. G. White appraisal."

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Trenton and Mercer Co. Traction Corporation—Increase in Rates.

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In the Board's report of December 26th, 1919, the value of the company's property was found to be \$3,918,011 (Vol. VII, P. U. C. Reports, p. 466). In this figure there was included working capital to the amount of \$100,000; the fixed capital, therefore, as of September 30th, 1919, amounted to \$3,818,011. The value of the net additions from September 30th, 1919, to December 31st, 1920, including change in construction work in progress, amounts to \$139,045, making the total fixed capital as of December 31st, 1920, \$3,957,056. To this should be added adjustments to fixed capital account for replacements made, approximately 100 per cent. above pre-war costs, the increased investment in which is not reflected in the above totals, \$62,500; working capital \$140,000; realized depreciation not earned—balance in property abandoned account—as of December 31st, 1920, \$95,101; making a total of \$4,254,657. The Ford, Bacon & Davis appraisal based upon pre-war costs was, \$4,334,192.

In addition to the valuation heretofore fixed by the Board with the additions made thereafter at war prices, namely, \$4,254,657, there was an appraisal of J. G. White & Company in a former proceeding, in which war-time prices were recognized, of \$4,875,000. The Ford, Bacon & Davis report, however, expressed a conclusion, not based upon actual costs, that the value of the property, taking into consideration pre-war prices, war prices and post-war prices, would be in the neighborhood of \$5,000,000.

Giving due consideration to these appraisals, we are called upon to determine whether the fare the petitioner proposes to charge would be just and reasonable; if not, whether the existing fare should be maintained or, if this is unreasonable, what fare should be fixed.

## OPERATING EXPENSES.

In 1920, the operating revenues amounted to \$1,401,863; the operating expenses, excluding taxes, maintenance and depreciation, amounted to \$802,848; the depreciation and maintenance \$350,466 and taxes \$94,930, making a total for operating expenses and taxes of \$1,248,244, leaving a net operating revenue of \$153,619. To this must be added the sum for non-operating income of \$4,315, making the gross corporate income \$157,934, say \$158,000. The revenue

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Trenton and Mercer Co. Traction Corporation—Increase in Rates.

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passengers for the year 1918 were 18,678,521, for the year 1919, 19,047,549; for the year 1920, 19,277,305. Notwithstanding the increase in the rate of fare which this Board previously allowed this company from six to seven cents, the number of passengers increased the addition of one cent apparently not having had a very appreciable effect upon the expected normal increase of passengers which the company would have had without a fare increase.

The number of passengers for the first three months of this year was 5,011,812. In this proportion the total number for the year would be approximately 20,000,000 with a continuance of the present rate of fare.

Judging by the experience of the company on the former increases of fares, we are of opinion that the number of riders for the year 1921 will not fall below 19,500,000. If the company be allowed an increase of one cent in the rate of fare, the increase in its revenues will be approximately \$195,000. From this should be deducted approximately \$10,000 additional franchise tax which must be paid on account of the increased gross receipts leaving \$185,000. The net revenue of the company at the present rate of fare of seven cents can be safely estimated to be at least the same as such revenue amounted to last year, viz., \$158,000. The sum of these two items, viz., \$185,000 and \$158,000—\$343,000, is approximately the net income which the Board estimates that the company would receive with an eight-cent fare.

This sum is nearly a seven per cent. return on the highest estimate of value of the property and approximately eight per cent. on the lowest.

Since the last adjustment of the rates of this company there has been a very material increase in operating costs and taxes. While the costs of some commodities used by the company are lower than they were at the peak, the cost of operation through economic causes is much higher than it was in 1919. There is not at this time any prospect that the downward trend of prices will so lessen operating costs in the immediate future as to effect the conclusions reached in this case. It is apparent from the evidence that under the existing rates of fare the company is not obtaining a reasonable return upon the fair value of its property used and useful in the service of the public and that it is entitled to some increase. The Board is not

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Electric Conduits Co. vs. Public Service Elec. Co.—Service Connection.

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satisfied, however, that a fare of ten cents is just and reasonable and withholds approval of the same. If such fare should be charged, and the number of passengers as estimated by the company should be carried, the return to it would be more than it is fairly entitled to receive. If, however, the result of such a fare should materially curtail the use of the trolleys, the value of the service would be impaired and lessened to the public and the company might not obtain more revenue than would accrue under an eight-cent fare.

The Board finds and determines that the existing rate of fare charged by the petitioner is insufficient and unreasonable.

It further finds and determines that a fare of eight cents to be charged where seven cents is now charged, with the continued charge of one cent for a transfer, would be just and reasonable and will authorize the company to charge the same, effective June 27th, 1921. The Board will retain jurisdiction of this proceeding to charge the rate herein allowed as and when conditions may require.

Dated June 20th, 1921.

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**No. 907.****IN THE MATTER OF THE PETITION OF THE ELECTRIC CONDUITS  
COMPANY**

VS.

**PUBLIC SERVICE ELECTRIC COMPANY FOR SERVICE CONNECTION.**

1. Standardization of equipment in the business of furnishing electrical current is highly desirable.
2. The equipment through which the petitioner asks for service differs in a number of respects from the specifications of the respondent.
3. It does not appear that the specifications complained of prevent the petitioner from securing in the open market at a reasonable price a device or equipment which will meet the respondent's requirement.
4. The Board holds that the refusal of the respondent to supply current through the appliances furnished by the petitioner is not unreasonable.

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Electric Conduits Co. *vs.* Public Service Elec. Co.—Service Connection.

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*William J. Dowd*, for the Petitioner.

*L. D. H. Gilmour*, for the Respondent.

The petition in this case shows that Electric Conduits Company is a corporation of this State engaged in business in the City of Plainfield and operates certain of its machinery and lights its plant by electricity; that it applied to the respondent, Public Service Electric Company, for service connections from its distributing wires to the wiring installation of petitioner and for the furnishing of electric current; that it desired such current furnished through a certain switch in a switch box or safety cabinet installed by petitioner and that respondent refuses to furnish current through the switch so installed.

Respondent's answer admits its refusal to supply current but justifies its refusal by setting up that the installation installed by petitioner does not conform to the reasonable rules prescribed by respondent.

Respondent has promulgated certain rules or specifications as to equipment for the purpose of bringing about standardization of equipment and uniformity in the conduct of its business. The primary objects of standardization, according to the testimony, are, the development of the best appliance for the purpose intended, safety, cost of installation and cost of operation and maintenance.

It needs no extensive argument to demonstrate that standardization of equipment in the business of furnishing electrical current is highly desirable. The question before the Board is whether the refusal of respondent to furnish current through the switch and safety cabinet in which it is installed, is reasonable.

The specifications in question require certain details of construction which do not in any material way affect the efficiency of the cabinet, such, for instance, as the requirement of a snaplock interchangeable end as distinguished from a slide interchangeable end; end hinge door in preference to side hinge; the requirement of concentric and "U" knockouts in preference to the ordinary kind, and the requirement as to size to the fraction of an inch. A variance in any of these particulars might well be held to be immaterial and the action of the company in refusing to connect for service, to be unreasonable. Any

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Coast Gas Co.—Service Charge.

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specifications, however, drawn for the purpose of standardizing equipment, must necessarily be more or less arbitrary in certain details.

It was contended on behalf of the petitioner that these specifications are unreasonable in that they require the installation of a safety cabinet which practically excludes the use of any cabinet except one which embraces certain features which are covered by patent rights and are, therefore, in effect, closed specifications. The evidence does not bear out this contention.

As the ostensible purpose of the proceeding is to compel respondent to furnish current through the safety cabinet furnished by petitioner, the evidence submitted was necessarily confined to that question and does not, therefore, permit of a broad determination as to the reasonableness of the specifications in their application to all appliances.

The equipment through which petitioner is asking for service differs in a number of respects from the specifications of respondent in the features hereinbefore enumerated and particularly in the fact that it is materially smaller than the specifications require. This latter difference is important in respect to service and maintenance.

Nor does it appear, from the evidence before the Board, that the specifications complained of prevent the petitioner from securing in the open market at a reasonable price a device or equipment which will meet the requirement of the respondent.

We are therefore of the opinion that the refusal of the respondent company to supply current through the appliances furnished by the petitioner is not unreasonable and the application will be denied.

Dated June 30th, 1921.

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No. 908.

IN THE MATTER OF THE COLLECTION OF A SERVICE CHARGE BY THE  
COAST GAS COMPANY.

1. In a decision filed July 27th, 1920, the Board authorized an increase in rates designed to afford the petitioner sufficient additional revenue to meet increased operating cost amounting to \$75,343.

2. The company claims that the increased charge allowed of 35 cents per thousand cubic feet applied to the quantity of gas sold results in additional revenue of but \$59,600.

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Coast Gas Co.—Service Charge.

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3. It asks that a yearly service charge applicable to summer customers be allowed or that it be advised from what sources the full amount of the estimated revenue should come.

4. Since the rate was increased the Board has reduced the heating standard for gas and it appears also that the price of gas oil to the petitioner has materially decreased.

5. It is estimated that the decreased cost of manufacture is more than sufficient to equalize the difference between the actual revenue and that estimated in the prior proceeding. The petition is denied.

*L. C. Ritchie*, for the Petitioner.

*Harry Cooper*, for the Borough of Belmar.

The petition in this proceeding is based chiefly upon certain findings in a decision filed July 27th, 1920, by the predecessors to the existing Board of Public Utility Commissioners. This decision authorized an increase of 35 cents per thousand cubic feet in the company's charge for gas.

The company claims that because it was unable to make the increase effective until August 1st, 1920, it would not obtain in the summer of 1920 the additional revenue contemplated, and that if this had been obtained it would have been less than the Board held it should receive to meet increased costs of operation.

The company states the Board estimated an annual sale of gas for 1920 of 170,000,000 cubic feet; that the 35 cents per thousand cubic feet additional charge allowed applied to the estimated sale of 170,000,000 cubic feet would produce but \$59,500 additional revenue, and that the Board found the increases in operating costs amounted to \$75,343; that there was, therefore, a deficit of \$15,843 not elsewhere provided for unless through the application of a yearly service charge on all meters, payable in advance by summer consumers and in monthly installments by yearly consumers; that the company had acted upon the assumption that the additional revenue of \$15,843 was to be provided through this medium, but that there had arisen a question as to the right of the company to exact advanced payment of the service charge.

The Board is asked to authorize the company to apply a yearly service charge, or in the absence thereof, that the company be ad-

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Coast Gas Co.—Service Charge.

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vised from what sources the revenue awarded by the Board of \$75,343 is to come from.

It appearing that to grant the petition of the company would result in an increased cost for gas to all the seasonal customers in the territory served by the company, the company's application was placed on the Board's calendar for hearing and notice was given to the municipalities in which the company operates. At the direction of the Board the company also caused a notice to be inserted in newspapers circulating in the territory served.

At the hearing but one municipality (Belmar) was represented. Testimony and exhibits were submitted by the company tending to show its receipts, operating expenses and general financial condition. The company's witness was cross-examined by the attorney for Belmar and a brief was submitted by him.

A review of the decision of the former Board supports the statement of the company that the Board estimated the increased operating costs would amount to \$75,343. It would seem from reading the report that the Board intended the increased operating costs should be met. It is true, as stated by the company that, upon an estimate of the sale of 170,000,000 cubic feet of gas, an increase of 35 cents per thousand cubic feet would fall considerably short of meeting the increased operating costs.

The company's rate schedule as authorized by the Board provides for a monthly service charge of 25 cents for each connected customer served through a three or five-light meter; for customers served through larger meters an additional service charge of one cent per one light increase in capacity of the meter is authorized.

While it may have been the intention of the Board at the time its decision was filed in 1920 to authorize the collection of a yearly service charge in advance from seasonal customers, the report of the Board does not authorize this. In its report the Board stated, however, that the schedule of rates allowed by it was based on the distribution of gas under a standard of 600 B. t. u.; that if the standard should be changed the rate would be subject to revision by reason of an alteration in the standard.

By an order issued August 3d, 1920, the Board lowered the heating standard for gas to 525 B. t. u. The company's witness testified that

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Coast Gas Co.—Service Charge.

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the company had taken advantage of this and had lowered the heating standard; that this resulted in a saving of from  $\frac{3}{4}$  of a gallon to a gallon of oil for each one thousand feet of gas manufactured. The price of gas oil in the Board's report was taken at 14 cents per gallon. Taking the smaller of the company's estimates as to the amount of oil saved in the reduction of the standard, namely,  $\frac{3}{4}$  of a gallon, for each thousand cubic feet of gas, the cost of manufacturing 170,000,000 feet of gas would be \$17,850 less than the Board's estimate. This is more than sufficient to equalize the difference between the Board's estimate of increased operating costs and the amount of additional revenue to be obtained from the increased charge of 35 cents per thousand cubic feet applied to sales of 170,000,000 cubic feet.

It appears, furthermore, that since the increase in rates was authorized the cost of oil has materially decreased and that other operating expenses are less than they were a year ago. Taking this into consideration, we are of the opinion that, notwithstanding the apparent discrepancy in the report of July 27th, 1920, between the estimates of increased operating costs and the amount of additional revenue to be derived from the sale of 170,000,000 cubic feet of gas at an increase of 35 cents per thousand cubic feet, a further increase in rates would not be justified. The petition therefore is denied.

We are not satisfied, however, that the present method of charging is the most equitable that could be devised between the all year and seasonal customers, or that the present schedule of rates should not be adjusted to changed conditions before the peak demand of next summer. We will, therefore, retain jurisdiction in this proceeding and will make such modifications in the rate schedule of the company as would upon further inquiry appear to be just and reasonable.

Dated June 30th, 1921.

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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**No. 909.****IN THE MATTER OF THE INVESTIGATION OF THE REASONABLENESS OF  
THE RATES OF THE PUBLIC SERVICE RAILWAY COMPANY.**

1. In determining the value of the property of a street railway company in a rate proceeding, the properties of a number of companies owned or controlled by the street railway, but not used for street railway purposes, are excluded.

2. Amounts paid by the government for construction work during the war are excluded.

3. The railway company turned over to an electric company all of its power stations, transformer stations, substations and its transmission system, together with certain parcels of real estate, the electric company agreeing to supply all the electric energy necessary for the operation of the railway company at the actual average cost of labor and material (exclusive of any charges or allowances for depreciation and taxes) for producing and delivering such energy to the distributing lines of the railway company. The electric company further agreed to install, as and when necessary, additions and extensions to its property to meet the increasing demands of the railway company, assuming all burdens of financing such additions and extensions, with the obligation on the part of the railway company to pay the electric company six per cent. per annum on the cost of such additions and extensions, in addition to the operating cost as referred to above. The street railway company received \$2,000,000 cash for the property turned over. The engineers employed by the State Appraisal Commission state:

"In view of the fact that this lease is between two companies both of which are practically 100 per cent. controlled by one interest, namely, Public Service Corporation of New Jersey, it was not deemed proper to assign any specific value to the lease *per se*, but its potential value has been given due consideration."

The Board agrees with this reasoning.

4. Following the rule laid down by the United States Supreme Court in the Minnesota rate cases, the Board holds that the reproduction value of lands to be considered as an element in determining the fair rate-making value of a public utility property is that based upon the value of adjacent similar lands, without increments, for conjectural damages, acquisition, or other incidental costs. Items purchased far in advance of their need, or remaining in the hands of the company years after their usefulness has departed, cannot be included in an appraisal based upon a consistent theory.

5. No finding is made as to a specific amount to be allowed for promotion expenses, but consideration is given to these in determining development cost as going value.

6. In this particular case it appears that unusual care was taken in preparing the inventories. A special effort was made to list all properties; also the engineers had the advantage of all preconstruction records in possession of the company, from which it would appear that much information could be

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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obtained as to difficulties encountered during construction. Very liberal allowances were made in determining unit prices. In most instances some amount was added to unit prices to cover contingencies and omissions. It is inconceivable, taking into consideration the care exercised in preparing the inventories and allowances made in building up unit prices, that any item of cost has been omitted. An appraisal of a known property plainly is not comparable with estimating costs from plans where conditions are unknown. The Board holds that no allowance should be made for contingencies beyond those included in the unit prices and in the quantities themselves.

7. For items other than land the Board finds and determines that the rate of interest allowable during construction should be computed at a rate between six and three-quarters and seven per cent. upon the physical property for the entire construction period.

8. The Board finds and determines that all amounts claimed for commissions and discounts should be excluded in determining fair value, and that due consideration will be given to these claims in determining the fair rate of return.

9. Consideration is given to superseded property in determining a proper allowance for development expenses or going value.

10. In the Passaic gas case, decided by this Board December 26th, 1912, it was said: "To obtain present value it becomes necessary to deduct from the estimated cost to reproduce new the accrued depreciation." In dealing with accrued depreciation the Board follows the rule laid down in the Passaic gas case, which it understands to be in accordance with the rule laid down by the United States Supreme Court. From all the evidence the Board finds and determines that there should be deducted for accrued depreciation from costs new of all the street railway properties other than lands \$13,500,000.

11. In fixing the value of this property current prices or the appreciated values will be considered. How much weight should be attached to present-day prices is a question that cannot be determined by any hard and fast rule. Certainly, while sufficient consideration must be given them, it would manifestly be unjust to make them the sole test of fair value. Appraisals made following the theory of cost of reproduction new necessarily cover appreciation to the time of the appraisal. In this record appraisals on pre-war basis reflect the appreciation to about 1912, excepting lands which are appraised at present-day prices; therefore all appreciation, if any, in lands would be taken care of. Another important recognition of present-day prices results from the fact that the additions made to this property since January 1st, 1916, have been included at the actual full wartime cost. Complying with the rule laid down by the United States Supreme Court, and after carefully considering all the evidence as to the general upward trend of prices, and also giving due consideration to present-day prices, the Board finds and determines that an allowance for appreciation is reasonably represented by \$12,000,000.

12. In view of the settled law on this subject in this State and in the United States, the question of making an allowance for going value is no longer open to discussion. That a going concern has a value over and above the value of the physical property employed is self-evident. From the very nature of this element of value it cannot be arrived at with accuracy, but must necessarily be considered in the light of all the facts in each particular case. The Public Service Railway Company is an amalgamation of a large number of separate entities. As a result there is a uniform operation which

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

gives to the system as a whole a greater value than would accrue from the operation of its numerous parts as separate and distinct units. After giving due consideration to all the evidence bearing upon that element of value known as "going value," and to all the facts having any bearing upon the matter, the Board finds and determines that an allowance for going value is reasonably represented by \$12,000,000.

13. When used for the purpose of aiding in the determination of the value of property at the present time, "historical cost" is the cost as shown by records of so much of the property as is found in place today. In determining value based upon original cost, it may be necessary to make certain deductions for accrued depreciation and certain additions for appreciation, but the result so obtained has reference to value and not at all to cost. An analysis of the testimony and exhibits relating to historical costs of this property, taking into account the various corrections made on cross-examination, shows a total historical cost of railway property existing December 31st, 1920, of \$72,779,345.

14. In making up the value of the property of a utility company allowance must be made for working capital. The Board finds and determines that working capital is needed by the company for two purposes:

1st. Because of investment in materials and supplies;

2d. To cover the amounts needed in advance to meet charges for insurance, licenses and other similar items in the aggregate.

One and one-half million dollars is held to be amply sufficient for these purposes.

15. Three estimates of physical cost of the properties were presented in evidence, excluding intangibles and everything else except pure physical costs. These estimates are as follows:

Cooley, cost new, approximately.....	\$69,000,000
Ford, Bacon & Davis, cost new, approximately.....	70,000,000
Wolff, cost new (historical).....	72,779,345

The Board takes the figure of \$70,000,000, which it considers as the cost new of the property deducts therefrom depreciation and adds to the resultant, appreciation, going value and working capital.

16. After considering all the evidence in this case relating to the value of the properties of the Public Service Railway Company, the historical cost, cost of reproduction new, accrued depreciation, appreciation, including all overheads, going value, contingencies, cash working capital, materials and supplies and all other elements of value, tangible and intangible, and having considered the company as a going concern with attached business, the Board finds and determines the fair value for rate-making purposes to be \$82,000,000.

17. The total number of passengers to be transported for the year beginning August 1st, 1921, is taken as follows:

Base rate fares .....	361,130,000
School fares .....	5,300,000
Total first fares .....	366,430,000
Transfer fares on 2c. basis .....	75,000,000
Total of all fares .....	441,430,000

The total revenue deductions, including \$900,000 for depreciation in way and structures, \$200,000 depreciation in equipment and \$2,380,000 for taxes, is estimated as \$21,708,641.

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

18. In estimating charges to depreciation account the Board holds there should be a charge of substantially \$300,000 a year to make up past deficiencies and \$800,000 a year normal annual appropriation; the total of \$1,100,000 to be appropriated annually during the next five years, subject to change by order of the Board as the facts may warrant.

19. The Board finds and determines:

(1) That the value of the property of the company used and useful in the public service is \$82,000,000.

(2) That the operating expenses of the company, including taxes and depreciation, will not exceed \$21,708,000.

(3) That a return of \$5,842,500 is a fair return upon the above valuation.

(4) That such return will give to the company a rate of slightly over seven per cent. upon such valuation.

(5) That the total requirements of the company, including the said return of \$5,842,500, will be \$27,550,641.

(6) That the increase in the charge for a transfer from one cent to two cents will produce an additional income of approximately \$715,000 a year to the company.

(7) That such increase in the charge for transfers, together with the reduction in cost of operation and wages and the other adjustments in operating expenses as found by the Board will produce a sufficient revenue to enable the company to meet all its requirements for operating expenses, taxes and depreciation and will afford a reasonable return upon the value of the property used and useful found by the Board.

*Thomas N. McCarter, E. W. Wakelee, Frank Bergen, L. D. H. Gil-mour and A. E. Armstrong, for the Company.*

*L. Edward Herrmann, for the Board.*

For the Municipalities—

*C. M. Egan and George L. Record, for Jersey City.*

*J. H. Dougherty and D. J. Murry, for Bayonne.*

*E. G. C. Bleakly and Charles H. Ellis, for Camden.*

*P. H. Harding, J. K. Lippincott and C. R. Bacon, for Haddonfield.*

*C. W. Letzger and D. M. Anderson, for Gloucester City.*

*C. B. Wright, for Clementon.*

*R. B. Lewis, Francis Scott and A. H. Radcliffe, for Paterson.*

*Frank B. Jess, for Borough of Haddon Heights.*

*W. C. Marshall, for Citizens of Haddonfield.*

*Borden D. Whiting and A. E. Burling, for Town of West Orange.*

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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*Albert Schefflin*, for Pensauken.  
*Garfield Pancoast*, for Laurel Springs.  
*William R. Conklin*, for Borough of Garwood.  
*F. M. Archer and William A. Searle*, for Chamber of Commerce.  
Camden.  
*J. Garland Hamner, Jr.*, for Town of Belleville.  
*Charles A. Wolverson and Frederick Long*, for Audubon.  
*James V. McAdams*, for Woodlynne.  
*Thomas S. J. Barlow*, for Maple Shade.  
*A. I. Drayton*, for Englewood.  
*George Gold*, for City of Clifton.  
*W. C. Asper and E. W. Grauert*, for Weehawken.  
*C. H. Stewart and Eugene Turton*, for Irvington.  
*Luther Shafer*, for Township of Lyndhurst.  
*D. H. Slayback and William W. Crane*, for Verona.  
*Leo Goldberger*, for Perth Amboy.  
*A. O. Miller and J. H. McGuire*, for Passaic.  
*Orrville P. Dewitt*, for National Park.  
*F. H. Sommer*, for Associated Municipalities.  
*L. F. Dodd, J. C. Barclay, Eugene W. Leake, and Commissioner*  
*Picken*, for Montclair.  
*J. H. Hull*, for Nutley.  
*James S. Gradwell*, for Oaklyn.  
*Thomas W. Jack, Thomas W. Davey and J. B. Kates*, for Col-  
lingswood.  
*E. G. Bennett*, for Merchantville.  
*F. A. Gerwans*, for Clementon Township.

## HISTORY OF THE CASE.

The Public Service Railway Company on March 5th, 1918, filed a petition with the Board praying for the approval of increased rates claimed to be necessary by abnormally increased costs of operation and maintenance. On July 10th, 1918, the Board filed a report and issued an order based upon the increased operating costs, and in accordance with suggestions made by the Federal Government that State

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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Commissions should render such assistance as might be possible in order to continue in operation the various public utilities.

Thereafter various intermediate reports and orders were made in this proceeding.

On October 23d, 1918, the Board issued a report in which it said:

“Before any \* \* \* final or permanent schedule of rates is permitted to be charged, the value of the properties of the company will be determined. The Board has required the company to submit to it a complete inventory and appraisal of its property \* \* \*. At as early a date as is practicable, with due regard for the legitimate interests of all concerned, the proceeding will be concluded and the return which the company is fairly entitled to receive upon the value of the property will be fixed.”

In the various orders issued throughout this proceeding, the Board specifically retained jurisdiction of the matter.

In December, 1920, the company filed a proposed rate of ten cents with free transfers where seven cents and a penny for a transfer was theretofore charged, to become effective January 1st, 1921. Under date of May 25th, 1921, the Board issued a report and order denying the application for a ten-cent fare.

The Supreme Court reversed the action of the Board and has handed down an order requiring the Board to increase the rates of fare in the company's application for a ten-cent fare. The Board believing that the only proper method of arriving at a just and stable rate is by taking into consideration all elements and factors including valuation, appealed from the order of the Supreme Court and requested the Chancellor to convene the Court of Errors and Appeals for the purpose of procuring a stay of the operations of the Supreme Court's order, but owing to the fact that it was impossible to convene the Court at this time, no stay of the Supreme Court's order could be obtained and that order commanding an increase in rates based upon the evidence in the ten-cent case alone is now in effect.

Side by side with this order of the Supreme Court requiring the Board to fix a rate on the evidence in the ten-cent case alone is the mandate of the Legislature as expressed in the acts of 1920 and 1921, known as the valuation acts, which direct this Board to hand down a decision in the valuation case within three months of the date of the

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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passage of said act, such decision, of course, to be based upon valuation as well as other elements. Thus there are two mandates: (1) that of the Supreme Court directing the Board to increase the present rates without regard to valuation; and (2) that of the Legislature directing the Board to fix a just and reasonable rate in which valuation must be a factor. In this dilemma the Board will endeavor as best it can to refrain from disobeying either authority. It is intended and hoped that the conclusions arrived at herein will comply with both directions.

•                      DESCRIPTION OF PROPERTY.

In order that the conditions under which the Public Service Railway Company operates may be properly understood, a brief description of the system may be advisable.

The Public Service Railway Company is operating a system of street railways, partly owned and partly leased, under the authority of a large number of franchises granted by some 146 municipalities.

It was formed in 1907 by consolidation of the North Jersey Street Railway Company, the Jersey City, Hoboken and Paterson Street Railway Company and the United Street Railway Company of Central Jersey. Since the date of the original merger, the following companies have been consolidated with the Public Service Railway Company: North Hudson Turnpike Company, Pavonia Horse Railroad Company, Newark and South Orange Railway Company. In addition, the company operates under lease the following named companies: Consolidated Traction Company, Jersey City and Bergen Railway Company, Newark Passenger Railway Company, Passaic and Newark Electric Traction Company, Rapid Transit Street Railway Company, of the City of Newark; South Orange and Maplewood Traction Company, Orange and Passaic Valley Railway Company, Bergen Turnpike Company, Camden and Suburban Railway Company, Camden Horse Railroad Company, New Jersey and Hudson River Railway and Ferry Company, Camden and Trenton Traction Company, Riverside Traction Company, railway plant and property belonging to the South Jersey Gas, Electric and Traction Company. The property of five other corporations is included in the system, viz.: Paterson and State Line Traction Company, Passaic and Newark

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

Electric Railway Company, Jersey City, Harrison and Kearny Railway Company, New Jersey Traction Company and West Jersey Traction Company. Leased properties represent about five-sevenths of the entire property comprised within the system.

The system comprises approximately 790 miles of operating track in addition to approximately 58 miles of track in car barns and yards. It operates all of the lines in the northeastern and central portions of the State and in the Camden district. It operates also the connecting links between Trenton and Camden and between the various towns and cities located in Hudson, Bergen, Essex, Union, Middlesex and Somerset Counties. As of December 31st, 1920, the company had 1,743 closed cars, 597 open cars, one convertible car and 267 semi-convertible cars. The company had on the same date 294 work cars, a total of 2,900 cars. On April 28th, 1921, the general manager of the company stated that they had a total of 3,012 cars, of which 69 were not fit for service. This would indicate that, as of April 28th, 1921, the company had 2,649 passenger cars available for service.

Cars operate over 90 routes, very few of which are confined within the limits of a single municipality. The district commonly spoken of as Newark includes East Orange, Orange, West Orange, South Orange, Irvington, South Orange Township, Bloomfield, Glen Ridge, Montclair, Belleville, Harrison, Kearny and East Newark, all of which municipalities are reached by a single fare from the City of Newark. A similar situation exists in Hudson County with Jersey City as a center, it being possible to travel for a single fare with a transfer from one municipality to almost any other located in Hudson County.

The total passengers carried for a number of years past has been as follows (in even thousands) :

1911.....	274,626,000	1916.....	340,598,000
1912.....	292,856,000	1917.....	359,153,000
1913.....	308,620,000	1918.....	351,044,000
1914.....	309,684,000	1919.....	325,754,000
1915.....	313,023,000	1920.....	361,691,000

The Public Service Railway Company operates a ferry from Edgewater to 130th Street, New York; also a ferry from Bergen Point to Staten Island. The company also operates two wagon elevators by means of which vehicles are transported from the lower levels of Jersey City and Hoboken to the upper levels of Jersey City Heights.

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

## CAPITALIZATION.

The Public Service Railway Company was formed, as stated, in 1907. Upon consolidation, stock to the par value of \$38,000,000 was issued in exchange for stock of the constituent companies. Since that time additional stock has been issued, bringing the total amount outstanding at the present time up to \$48,750,000. Public Service Railway stock is owned entirely by the Public Service Corporation. Public Service Railway Company, as such, has no mortgage and no bonds outstanding, other than car trust certificates. The method of financing since the formation of the company has been for the most part by the sales of stock at par to the corporation, the corporation, in turn, obtaining its funds through the sale of its stock, bonds and certificates of indebtedness.

Although Public Service Railway Company has no bonds outstanding in its own name (other than car trust certificates), it guarantees the interest on bonds of various constituent and lessor companies, amounting in the aggregate to \$80,533,000. It also guarantees certain rentals upon the stocks of the constituent and lessor companies. The aggregate stock outstanding of such companies is \$22,764,640. The rentals paid by the Railway Company to its lessors and available for the payment of dividends on the stocks of such companies is \$1,166.514 per annum. The total fixed charges for such rentals and interest which Public Service Railway Company is obligated to pay are as follows:

Interest on underlying bonds.....	\$3,707,140*
Interest on car trust certificates.....	51,440
Interest on miscellaneous obligations outstanding at close of 1920 .....	109,968
Rentals based on underlying stocks.....	1,166,514*
Total .....	\$5,035,062

\* These figures are only approximate, inasmuch as one of the lessor companies also owns gas and electric properties which are leased to and operated by other utilities, and the amount of its outstanding bonds and stock, and the interest and dividends thereon, have been apportioned in compiling the above statements on the basis of the rentals paid by the lessee companies.

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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The aggregate capitalization of the Railway Company and its constituents, including lessor companies, is as follows:

Public Service Railway Company stocks.....	\$48,750,000
Car Trust Certificates of P. S. Ry.....	1,627,000
Stocks of underlying companies.....	22,764,640*
Bonds of underlying companies.....	80,533,000*
Total .....	\$153,674,640

VALUATION.

As a result of the numerous hearings in the matter of the adjustment of Public Service Railway rates, commencing with the filing by the company on March 5th, 1918, of a petition praying for increased rates, the Board has before it data relating to the value of this property as follows:

1. The Cooley appraisal.
2. The appraisal made by Ford, Bacon & Davis under contract with the State Appraisal Commission under special act of the Legislature.
3. An array of testimony by numerous experts for the company with regard to overhead charges, development cost, cost of financing present-day values, etc.
4. Testimony of the Board's experts regarding the Cooley inventory and the unit prices used in the Cooley appraisal.
5. Testimony of witnesses for the Board with regard to general subjects of unit prices, overhead charges, development cost, cost of money, value of land, etc.
6. Similar testimony introduced by the municipalities.
7. The historical cost of this property as developed by witnesses for the municipalities.

The original appraisal by Mortimer E. Cooley, was made during the years 1914 and 1915 and includes all property as of December 31st, 1915, based upon average prices for the period from 1911 to 1915. In this appraisal the property of the Public Service Railroad Company was also included and testimony with regard to this portion of the total property had been submitted to the Board in a matter concerning that company.

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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Appendix I, forming part of this report (Cooley, p. 3), gives a summary of the cost new of the property of the two companies, classified by operating divisions.

Appendix II is a valuation showing the cost new of the two properties, classified by accounts (Cooley, pp. 4 to 7).

Cooley also submitted aggregate prices for the same properties based upon unit prices from 1913 to 1918, inclusive. He also submitted totals for the same properties based upon prices prevalent in the year 1918.

In the appraisal made by Ford, Bacon & Davis, aggregate figures showing the cost new of the properties, classified by accounts, are submitted on two bases: (1) Pre-war prices, being generally the average of prices ruling between 1910 and 1915, obtained principally from the records of actual payments by the company and verified in general by market and other price data used by them in the appraisal of similar properties. (2) Prices effective September 1st, 1920. These appraisals are shown as Appendix III. In the preparation of the Ford, Bacon & Davis appraisal, the Cooley inventory was used as a basis, to which was added the items representing additions to the property up to December 31st, 1920. Ford, Bacon & Davis, in their report, set out a number of other elements such as superseded property and development cost, an estimate of accrued depreciation, and a percentage figure supposed to represent the general efficiency of the property, and from these various elements conclude that the value of the property, inclusive of all elements to be considered for rate making purposes, is \$125,000,000.

Other witnesses for the company testified that, in their opinion, the cost to reproduce the physical property of the Public Service Railway Company at prices prevalent approximately January 1st, 1921, would be at various amounts ranging from \$175,000,000 to \$200,000,000.

Professor Anderson, who testified at great length, with regard to the basis of Colley's appraisal, submitted a series of charts showing the gradual changes in prices of labor and material involved in the construction of railways, showing a general upward trend in cost of materials running over a number of years. The record also contains charts showing trend prices from 1890 to date. The testimony generally tends to substantiate the fact that costs of construction effective

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in January, 1920, were approximately double the prices prevalent in 1913.

Testimony submitted by experts for the Commission and for the municipalities before the Ford, Bacon & Davis appraisal was received called attention to excessive claims for overhead charges in the Cooley appraisal. Comparison between the Ford, Bacon & Davis appraisal and Cooley's appraisal also directs attention to a considerable variation in opinion as to appropriate overhead charges. To show this wide variation, a table has been prepared which is found in Appendix IV.

With regard to the basic inventory upon which the various appraisals have been based: During the preparation of the inventory the Board's engineers were familiar to a large extent with the progress of the work. After the submission to the Board of the Cooley report, a large amount of independent investigation was made by the Board's engineers and the results compared with the Cooley inventory, the conclusion being that the Cooley inventory had taken into account not only everything that could be found by examination of the property, but in its preparation recourse had been made to all records of construction available. These included newspaper files, minutes of the various companies, franchise and other agreements, consultations with older employees, and with other persons who were familiar with the history of the construction.

Following the study and check of the Cooley appraisal, a comprehensive study was made of Cooley's unit prices which developed the fact that in connection with a great many items of labor and material, allowances for omissions had been included in the unit prices.

This analysis shows that many unit prices were obtained by Cooley from analysis made from the company's own experience in reconstructing various parts of its system. Other prices were obtained from the company's own experience in making extensions and additions to its property. Unit prices obtained from records of cost of reconstruction have been taken on the assumption that existing traffic over the system was to be maintained.

The report of Dean Cooley purports to give the appraised value of the property of Public Service Railway Company on the general assumption that it is to be or is being reproduced new as of a certain date.

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With regard to the net additions to the property from 1916 to 1920 comment must be made on two items. In arriving at the value of the property at the present time, net additions have been made as found on the books of the company. The figures for net additions result by deducting from the figures given for gross additions the cost of withdrawals. Items charged to depreciation and deducted in order to obtain the net additions have been deducted at either cost or estimated original cost. Such items, however, have been included in the Cooley appraisal at figures in excess of the cost. The entries in the books have been properly made and no criticism is meant by what is now being said, but in order to obtain the correct amount for the net additions we should add to the Cooley appraisal as of 1915, figures representing the gross additions to property, and from the Cooley appraisal should then be deducted not the original or estimated actual cost of the properties written off but the amount at which Cooley has included them in his appraisal. Furthermore, the figures representing gross additions from 1916 to 1920 include the cost of certain properties both in the vicinity of Newark and of Camden, money for the construction of which was advanced by the United States Government in connection with construction for war purposes. The agreements between the Government and the company provide that at the proper time these elements of property shall be paid for by the company at prices considerably lower than the cost to the Government. There are several of these contracts; some of them lead to definite amounts; others are subject to certain conditions and agreements to be made at some time in the future and the exact amounts cannot now be determined. The book amount given as gross additions cannot, therefore, be taken as the correct figure for cost to the company, nor can the company's deductions be taken as properly representing the corrections to be made in the Cooley appraisal in bringing that appraisal up to date.

Appendix V shows the approximate cost to the company of the extensions made for the Emergency Fleet Corporation, as near as can be determined in advance, from a study of the contract.

Mark Wolff, for the municipalities, testified that he had made a historical study from the books of the various companies, as a result of which he submitted a large number of exhibits.

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Wolff made two independent studies to determine the actual amount of cash which had gone into the construction of the railway properties. His first estimate was made by an analysis of capitalization made from the company's records. By this means he summed up the various amounts of securities which he claimed had been issued without equivalent value. From his testimony it appeared that there had been issued securities of approximately \$66,000,000 in excess of the actual cost of the properties of the company.

Mr. Wolff's second method was synthetic in that he arrived at a total historical cost for all of the properties by adding together the costs of all the constituent companies and by this method he arrives at a gross figure of \$91,616,569, this representing total amounts of money expended since the beginning on all of the railway properties.

Wolff's conclusions were attacked by witnesses for the company and certain conclusions drawn therefrom by Ford, Bacon & Davis. On page 30 (printed copy page 38) is given the result of application of later testimony to Wolff's original conclusions.

Delos F. Wilcox testified for the municipalities (see Exhibit O-620) also with regard to the historical cost.

Because of the fundamental principles underlying some of the differences in the testimony and the large sums involved, we think a detailed discussion thereof may be desirable.

PROPERTY NOT USED NOR USEFUL AND SUBSIDIARY COMPANIES.

From the evidence it appears that there is included in the appraisals now before the Commission the following properties:

*Jersey City Wagon Elevator Company.* It appears that there is no such company but that it is an elevator owned by the Public Service Railway Company originally built for the raising and lowering of horse cars from the lower level of Hoboken to the Heights. This elevator is now used for carrying wagons and trucks, etc., up and down the sides of the Palisades. From the evidence the Commission finds that this is not used and useful property in the conduct of street railway transportation, and therefore will be excluded in determining the value of the property.

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*Highland Improvement Company.* It appears that this is a company organized for acquiring lands and titles to lands needed in the development of the railway company at Edgewater. All the stock of this company is owned by the New Jersey and Hudson River Railway and Ferry Company. Part of the lands acquired through this company were deeded to the Riverside and Fort Lee Ferry Company and are now used for terminal purposes. It is claimed by the company that other parts of the lands so acquired have been transferred directly to the railway company and include the Horse Shoe Curve and other property at Edgewater used for railway purposes and that other portions of the original plot purchased by the company have been deeded to others, the value of which is not in any of these appraisals. The Commission in determining value of the property used and useful in the conduct of street railway transportation will exclude all lands not so used. The value of the land not so used, including certain residences erected thereon, is \$18,463.10.

*New York Harbor Real Estate Company.* This is another real estate company controlled by the railway company and has been used in acquiring title to certain properties along the Hudson River. The company claims that this land is used and useful for railway purposes. From the evidence it appears that the lands involved in the operation of this company are used and useful especially in connection with the operation of ferries and have been excluded entirely in the consideration of this matter.

*Riverside and Fort Lee Ferry Company.* This is a New York corporation. All the stock of this company is owned by the New Jersey and Hudson River Railway and Ferry Company. All the property of the New Jersey and Hudson River Railway and Ferry Company is leased to the Public Service Railway Company under lease approved by this Board in 1911. It further appears that when the street railway now connecting Edgewater with Hackensack, Paterson, Englewood, etc., was begun to be built at Edgewater, there was no connection at that point with New York City and that the company acquired this ferry, relocated the terminal on the Jersey side, and this ferry is now used in transporting passengers between Edgewater, N. J., and New York City, an interstate movement. It further appears that all profits arising out of the operation of the ferry come

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to the railway company through stock ownership and is credited to non-operating income of the railway company. From the evidence the Commission finds that this ferry is used in the conduct of interstate traffic and is without its jurisdiction and therefore the value of the same will be excluded in determining the fair value of the railway property in this proceeding. Likewise the Commission finds that all income derived from the operation of this ferry should be excluded from the income of the street railway company and also charges, if any, charged to operation of street railway should be excluded.

*Port Richmond and Bergen Point Ferry Company.* It appears that this company operates a ferry between Bayonne and Staten Island and that the stock of the company is owned by the Consolidated Traction Company, which company was leased to the North Jersey Street Railway Company, which company is a part of the Public Service Railway Company. The income from this ferry appears in the statements of the Public Service Railway Company under its heading "Income From Other Sources." Inasmuch as Staten Island is in the State of New York and Bergen Point, Bayonne, is in the State of New Jersey, the transportation of passengers by this ferry constitutes an interstate movement over which this Commission has no jurisdiction. Therefore, from the evidence the Commission finds that the value of the same should be excluded in determining the fair value of the property of the street railway company and further finds that all income from the operation of the ferry which now appears in the statements of the Public Service Railway Company should be excluded and likewise all expenses, if any, for the operation of the ferry that appear in the statements of the Public Service Railway Company should also be excluded.

*Peoples Elevating Company.* It appears that the railway company owns the capital stock of this company and that the company owns and operates an incline plane up the side of the Palisades between Hoboken and Weehawken. It was built in 1899 and the company claims it provides a conveyance for the carriage of materials of all kinds and has aided in the development of the territory. From the evidence the Commission finds that this property is not used and useful in the conduct of the street railway transportation and should

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be excluded in determining value of the property of the Public Service Railway Company.

*Fairview Crushing Company.* This is a quarry property owned by the Public Service Railway Company and that the stone quarried is used in the construction and maintenance of the street railway and that the company obtains this stone at actual cost. Inasmuch as the output of this quarry is used exclusively by the street railway company, the Commission finds that the same should be included in determining the value of its property.

PROPERTY CONSTRUCTED AT GOVERNMENT EXPENSE TAKEN BY THE  
COMPANY.

From Appendix V it is found that, under the head of additions, there has been included an amount corresponding to cost, to the government, which is in excess of the cost to this company of approximately \$633,408. To include now, this excess, would result in requiring the customers to pay on this item twice, once through the cost of supporting the general government, and the second time in contribution to meet the company's fixed charges. The Board therefore finds and determines that a deduction should be made of \$633,408.

POWER STATIONS.

From the evidence it appears that on July 4th, 1910, the Public Service Railway Company executed a lease for a period of 999 years to the Public Service Electric Company of all its power stations, transformer stations, sub-stations and its transmission system, together with certain parcels of real estate.

The salient features of this lease are as follows: In consideration of the railway company turning over to the electric company all of its power producing facilities whereby the electric company agreed to supply all of the electric energy necessary for the operation of the railway company at the actual average cost of labor and material (exclusive of any charges or allowances for depreciation and taxes) for producing and delivering such energy to the distributing lines of

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the railway company. The electric company further agreed to install as and when necessary additions and extensions to its property to meet the increasing demands of the railway company, assuming all burdens of financing such additions and extensions with the obligation on the part of the railway company to pay the electric company six per cent. per annum on the cost of such additions and extensions in addition to the operating cost as referred to above.

While Ford, Bacon & Davis say the book cost of the power plants turned over to the electric company is \$5,169,000, for which the company received \$2,000,000 cash, they add:

“However, in view of the fact that this lease is between two companies, both of which are practically 100 per cent. controlled by one interest, namely, Public Service Corporation of New Jersey, it was not deemed proper to assign any specific value to the least per se, but its potential value has been given due consideration.”

We agree with this reasoning.

#### LANDS.

In addition to the public streets occupied by it, petitioner owns considerable amounts of right of way and other real estate. This has been evidenced by the filing with the Board in connection with this matter a volume containing some 301 prints, each of which represents one or more plots of land occupied by car barns, car yards, storage yards, small sections of right of way and other small plots used for street railway purposes. In addition a large number of folders giving completely the strips of land comprising right of way over which many of the urban and interurban lines have been constructed. Of the 790 miles of operating road approximately 421.54 miles are operated along public streets and roads and 76.79 miles are located on private right of way.

The value of the lands belonging to the Public Service Railway Company is shown in the Cooley appraisal at \$10,432,682 and was testified to by individual appraisers who had considered each parcel. These appraisals were made by experts recognized as such in the localities where they reside, in which the particular lands appraised by them were located. In 1919 and in June, 1921, the lands were re-

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appraised by these same appraisers and the value testified to before the Board. Professor Anderson (see testimony, February 10th, 1920; also Ex. P.-347-P-352, inc.) eliminated certain lands not used and occupied by the Public Service Electric Company under the general power agreement; also certain lands were eliminated by him which have been sold since the Cooley appraisal in 1915 and also were added certain other lands acquired since 1915. The petitioner now claims a total value for lands of \$11,460,415. Ford, Bacon & Davis also engaged certain real estate experts to appraise the lands. These appraisers found a total value of all lands of \$11,429,295. In view of the changes in value which have occurred in the last year or so, the Board employed real estate experts who testified as to the value of the more important tracts of land, particularly those where the value claimed varied considerably from the assessed value. In arriving at conclusions careful comparison has been made of the values of the individual tracts.

In both the Cooley and Ford, Bacon & Davis appraisals overhead charges such as law and administration expense, interest and taxes during construction, organization and development, cost of money, promoters' compensation, and engineering and superintendence have been computed upon a basis which included the land values. The amount added in this way in the Cooley appraisal is \$3,845,427 and in the Ford, Bacon & Davis appraisal, \$2,918,613. In the amounts named above as the appraised value of lands, in both the Cooley and Ford, Bacon & Davis appraisals there have been included allowances for plottage, the effect of certain multipliers, or other direct allowances intended to represent the increased value because of use as rights of way.

The original or historical cost of all lands as determined by Wolf. a witness for the municipalities, shows actual cost of all lands to be \$5,573,286.

In the Minnesota rate cases, the United States Supreme Court, 230 U. S. 352, stated:

"These are the results of the endeavor to apply the cost-of-reproduction method in determining the value of the right of way. It is at once apparent that, so far as the estimate rests upon a supposed compulsory feature of the acquisition, it can-

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not be sustained. It is said that the company would be compelled to pay more than what is the normal market value of property in transactions between private parties; that it would lack the freedom they enjoy, and, in view of its needs, it would have to give a higher price. It is also said that this price would be in excess of the present market value of contiguous or similarly situated property. It might well be asked, who shall describe the conditions that would exist, or the exigencies of the hypothetical owners of the property, on the assumption that the railroad were removed. But, aside from this, it is impossible to assume, in making a judicial finding of what it would cost to acquire the property, that the company would be compelled to pay more than its fair market value. It is equipped with the governmental power of eminent domain. In view of its public purpose, it has been granted this privilege in order to prevent advantage being taken of its necessities. It would be free to stand upon its legal rights and it cannot be supposed that they would be disregarded (pp. 450-451).

“Moreover, it is manifest that an attempt to estimate what would be the actual cost of acquiring the right of way, if the railroad were not there, is to indulge in mere speculation. The railroad has long been established; to it have been linked the activities of agriculture, industry and trade. Communities have long been dependent upon its service, and their growth and development have been conditioned upon the facilities it has provided. The uses of property in the communities which it serves are to a large degree determined by it. The values of property along its lines largely depend upon its existence. It is an integral part of the communal life. The assumption of its non-existence, and at the same time that of values that rest upon it remain unchanged, is impossible and cannot be entertained. The conditions of ownership of the property and the amounts which would have to be paid in acquiring the right of way, supposing the railroad to be removed, are wholly beyond reach of any process of rational determination. The cost-of-reproduction method is of service in ascertaining the present value of the plant, when it is reasonably applied and

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when the cost of reproducing the property may be ascertained with a proper degree of certainty. But it does not justify the acceptance of results which depend upon mere conjecture. (p. 452.)

“Assuming that the company is entitled to a reasonable share in the general prosperity of the communities which it serves, and thus to attribute to its property an increase in value, still the increase so allowed, apart from any improvements it may make, cannot properly extend beyond the fair average of the normal market value of land in the vicinity having a similar character. Otherwise we enter the realm of mere conjecture. We therefore hold that was error to base the estimates of value of the right of way, yards and terminals upon the so-called ‘railway value’ of the property. The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise to cover hypothetical outlays. The allowances made below for a conjectural cost of acquisition and consequential damages must be disapproved; and, in this view, we also think it was error to add to the amount taken as the present value of the lands the further sums, calculated on that value, which were embraced in the items of ‘engineering, superintendence, legal expenses,’ ‘contingencies’ and ‘interest during construction.’ (pp. 454-456.)”

Therefore, following the rule laid down by the United States Supreme Court in the Minnesota rate cases, *supra*, as we understand it, this Board holds that the reproduction value of lands to be considered as an element in determining the fair rate making value of a public utility property is that based upon the value of adjacent similar lands, without increments, for conjectural damages, acquisition or other incidental costs.

An analysis has been made of the details of land included in the inventory. This develops the existence and inclusion in the Cooley appraisal of a number of items not at present in use for railway transportation purposes. Certain of these items have been excluded in the Ford, Bacon & Davis appraisal. Witnesses testified as to the

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uses of these lands and called attention to the fact that other tracts of land included in both the Cooley and Ford, Bacon & Davis appraisals should not now be included as used and useful. Their inclusion by the appraisers appears to arise from a confusion of different theories as to methods of finding value. In general, the appraisals which have been made are based upon the so-called reproduction theory. A consistent interpretation of this theory would include in the inventory itself only such items of property as are at present used in the service of the public or such items as have been purchased but a short time back for use in the very near future. An inventory of this kind will include materials and supplies kept in storerooms and under such a general heading certain items of land may be properly included, but items purchased far in advance of their need or remaining in the hands of the company years after their usefulness has departed cannot be included in an appraisal based upon a consistent theory.

This is in accordance with the decision of the United States Supreme Court in the Cedar Rapids Gas Company case, 233 U. S. 655; also in the Spring Valley Water Company *v.* San Francisco, 165 Fed. 667, and Duluth Street Railway Company *v.* Railroad Commission of Wisconsin, 152 N. W. 887.

In accordance with these decisions, the Board is of the opinion and finds and determines that the following parcels should be omitted:

Elizabeth—North Broad Street—office building, part only.

Camden—Fourth and Chestnut Streets.

Jersey City—Foye Place and Tuers Avenue, Montgomery Street near Westside Avenue, Sip Avenue Terminal, part occupied by office building.

West Hoboken—Spring Street, Jane to Angelique Street, Marshall, Second and Harrison Streets.

Clifton—Franklin Avenue, Delawanna car house.

Lodi—Union Street (sold).

Newark—South Broad and Miller Streets.

Orange—Washington Street, opposite Passaic Valley barn.

Verona—Bloomfield Avenue and Mt. Prospect Avenue.

The above items are in addition to those already excluded by Ford, Bacon & Davis.

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After considering all of the evidence as to land value in this case and following the rule laid down by the United States Supreme Court in the Minnesota rate cases, the Board is of the opinion and finds and determines that the value of lands which should be included to be \$8,705,000.

#### PROMOTION EXPENSES.

Under the head of promotion expenses and organization and development there appears in the Cooley appraisal the sum of \$5,360,812, and in the Ford, Bacon & Davis appraisal for pre-construction costs, \$2,066,023.

As the Board understands it, the cost of reproduction reflects the probable expenditures that would be made in the construction of a property under assumed conditions. Difference of opinion may prevail as to the assumed conditions and the relative value of the results secured and the cost of the same. Nevertheless, there is an expenditure of time and money on the part of someone in developing the project, interesting capital and bringing the project to a successful conclusion. Consequently, it remains to be determined the proper allowances for these items. In this case there is no definite evidence as to such costs and the claims are based mainly upon estimates which, of course, are largely "conjectural" and uncertain. Taking into consideration all the conditions and circumstances in this case, the Board will make no finding as to a specific amount to be allowed, but will give consideration to promotion expense in determining development cost or going value.

#### CONTINGENCIES.

In the Cooley appraisal there appears an item of \$2,808,909 for contingencies, which is seven and one-half per cent. of way and structures and two per cent. of the cost of equipment.

The following statement appears in the Cooley appraisal:

"The engineer and the contractor always include in their estimates of cost a certain percentage based on materials and labor to cover items of expense unforeseen and overlooked."

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also:

“In this appraisal an effort has been made to include omissions in unit prices, and certain specific contingencies also. General contingencies have been placed at seven and one-half per cent. on way and structures and two per cent. on equipment.”

It is true that a contractor in estimating the cost of an entirely new project from prepared plans and specifications adds some amount for contingencies, varying as to the risks and uncertainties introduced. For example, in street paving work the risk is small; the opposite would prevail in estimating from plans the cost of the tunnel under the Hudson River in the vicinity of the New York Harbor where the risk undoubtedly would be large.

In this particular case it appears that unusual care was taken in preparing the inventories. A special effort was made to list all properties; also the engineers had the advantage of all pre-construction records in possession of the company from which it would appear that much information could be obtained as to difficulties encountered during construction. Very liberal allowances were made in determining unit prices. In most instances some amount was added to unit prices to cover contingencies and omissions. It is inconceivable, taking into consideration the care exercised in preparing the inventories and allowances made in building up unit prices, that any item of cost has been omitted. An appraisal of a known property plainly is not comparable with estimating costs from plans where conditions are unknown.

The estimates upon which rests the basis for the claim for allowances of contingencies in this case are purely speculative and conjectural. Such estimates were condemned by the United States Supreme Court in the Minnesota Rate Case.

In the case of the National Telegraph Company v. His Majesty's Postmaster General, 16 A. T. & T. Co., Com. L. 491, 533, in which a claim of two per cent. was made for contingencies, Sir James Woodhouse, delivering the judgment, said:

“It is no doubt usual when a contractor makes a tender to construct works or plant to include in his estimate a percentage of this character to provide against miscalculation in quantities and other elements of uncertainty. But we are dealing

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in the case put before us by the company with calculations based on what it actually cost the company to do the work for themselves, where all factors of cost are ascertained and provided for \* \* \*. Mr. Cook, the assistant engineer, admitted that the item could not be regarded from the point of view of a contractor's percentage, but said it was intended to cover any omissions or errors in the inventory. But the inventory is an inventory check by both sides, and the particulars and quantities are ascertained and agreed—so here, again, I fail to see the applicability of the item proposed to be included in the cost, and, in my view, therefore, there is nothing to be added in respect to this item.”

The Board finds and determines that no allowances should be made for contingencies beyond those included in the unit prices, and in the quantities themselves.

#### INTEREST DURING CONSTRUCTION.

In the Cooley appraisal a construction period of about three years has been assumed and that the land would be acquired a year at least ahead of the end of the construction period. The interest rate finally chosen for this appraisal is eleven per cent.

In the Ford, Bacon & Davis appraisal, interest during construction is treated as the net interest accruing on construction expenditures before the property for which expenditures were made is placed in operation. Further, it is planned that the properties will be constructed by sections and placed in operation as sections are completed, thus relieving the interest account of that portion. A credit is also estimated for bank balances of two per cent. per year. The interest as estimated averages between six and three-quarters and seven per cent. of the construction accounts.

Robert W. Feustel, testifying in behalf of the Board, stated that in estimating interest during construction it should be assumed that the properties would be constructed in sections and placed in operation as soon as completed and this procedure would shorten the period upon which to compute interest. From his study he con-

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cluded that an allowance of approximately seven per cent. would be proper.

As to interest and other overheads as applied to land that has already been disposed of for other items, the Board finds and determines that the interest allowable during construction should be computed at a rate of between six and three-quarters and seven per cent. upon the physical property for the entire construction period.

#### COST OF MONEY.

The Cooley appraisal carries an item of \$3,573,875 for cost of money, being five per cent. on lands, ways and structures, equipment, and other items as contained in Account Nos. 502 to 549a, inclusive, in said appraisal.

The Ford, Bacon & Davis appraisal contains for financing an item of \$3,738,400 based upon pre-war prices and \$11,485,100 based upon prices as of September 1st, 1920, which in case of pre-war prices amounts to five per cent. of the structural cost and 7.5 per cent. on the present-day prices.

Discounts on bonds and commissions are always very closely allied. Generally speaking, the system of accounts adopted by this Board does not distinguish between the two charges but provides that all discounts and commissions shall be excluded from the capital account and amortized out of the earnings over a term of years. In other words, bond discount and commissions are regarded as another form of interest rates.

The Board finds and determines that all amounts claimed for commissions and discounts in the sale of securities should be excluded in determining fair value and further finds that due consideration will be given to these claims in determining the fair rate of return.

#### SUPERSEDED PROPERTY.

Under this head there appears in the Ford, Bacon & Davis appraisal an item amounting to \$4,701,943, purporting to represent the service value of superseded horse cars, cable drums, track, power plant equip-

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ment, distribution system, cars and equipment, abandoned track and fare zone expenses.

Wolff claims superseded property such as superseded horse and cable property and other items not enumerated amounts to \$9,461,204.

The Board will give due consideration to this class of property in determining a proper allowance for development expenses or going value.

#### DEPRECIATION.

In the brief filed by the company appears the following statement:

“This company contends that the value of its physical property is represented by the cost of reproduction new, and that accrued depreciation should not be deducted in ascertaining value of this property.”

In the case of *Knoxville v. Knoxville Water Company*, 212 U. S. 1; 29 Sup. Ct. 192, United States Supreme Court said:

“The cost of reproduction is one way of ascertaining the present value of a plant like that of a water company, but that test would lead to obviously incorrect results if the cost of reproduction is not diminished by the depreciation which has come from age and use. \* \* \*

“The cost of reproduction is not always a fair measure of the present value of a plant which has been in use for many years. The items composing the plant depreciate in value from year to year in a varying degree. Some pieces of property, like real estate, for instance, depreciate not at all, and sometimes, on the other hand, appreciate in value. But the reservoirs, the mains, the service pipes, structures upon real estate, standpipes, pumps, boilers, meters, tools and appliances of every kind begin to depreciate with more or less rapidity from the moment of their first use. It is not easy to fix at any given time the amount of depreciation of a plant whose component parts are of different ages, with different expectations of life. But it is clear that some substantial allowance for depreciation ought to have been made in this case. \* \* \*

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"The company's original case was based upon an elaborate analysis of the cost of construction. To arrive at the present value of the plant, large deductions were made on account of the depreciation. This depreciation was divided into complete depreciation and incomplete depreciation. The complete depreciation represented that part of the original plant, which through destruction or obsolescence, had actually perished as useful property. The incomplete depreciation represented the impairment in value of the parts of the plant which remained in existence and were continued in use. It was urgently contended that, in fixing upon the value of the plant upon which the company was entitled to earn a reasonable return, the amounts of complete and incomplete depreciation should be added to the present value of the surviving parts. The court refused to approve this method, and we think properly refused."

In the Minnesota rate cases, *supra*, the United States Supreme Court, Mr. Justice Hughes speaking, said:

"We cannot approve this disposition of the matter of depreciation. \* \* \* It is also to be noted that the depreciation in question is not that which has been overcome by repairs and replacements, but is the actual existing depreciation in the plant as compared with the new one. It would seem to be inevitable that in many parts of the plant there should be such depreciation, as for example in old structures and equipment remaining on hand. And when an estimate of value is made on the basis of reproduction new, the extent of existing depreciation should be shown and deducted. \* \* \* And when particular physical items are estimated as worth so much new, if in fact they be depreciated, this amount should be found and allowed for. If this is not done, the physical valuation is manifestly incomplete. And it must be regarded as incomplete in this case."

And the Court said in *Des Moines Gas Co. v. Des Moines*, 238 U. S. 153, P. U. R. 1915D, 577, 59 L. ed. 1244, 35 Sup. Ct. Rep. 811:

"The rule as established beyond cavil that in arriving at the value of a plant of a public utility for rate-making purposes, the basis is the reproduction value new less depreciation according to the condition, life and age of its various parts."

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Kansas City Southern Railway Company v. United States, 231 U. S. 423.

San Diego Land and Town Company v. National City, 174 U. S. 739.

In the Passaic Gas case, decided by this Board December 26th, 1912, it was said:

“To obtain present value it becomes necessary to deduct from the estimated cost to reproduce new the accrued depreciation.”

In dealing with accrued depreciation in this case the Board will follow the rule laid down in the Passaic Gas case which it understands to be in accordance with the rule laid down by the United States Supreme Court.

From all the evidence the Board finds and determines that there should be deducted for accrued depreciation from costs new of all the street railway properties other than lands, \$13,500,000.

#### APPRECIATION.

As was said by the United States Supreme Court in *Willcox v. Consolidated Gas Co.*, 212 U. S. 19, 53 L. ed. 382, 48 L. A. R. (N. S.) 1134, 29 Sup. Ct. 192, 15 Ann. Cas. 1034:

“The valuation of the property upon which the company is entitled to a fair return must, as a general rule, be determined as of the time when the inquiry is made regarding the reasonableness of rates fixed by statute giving the company the benefit of any increase in the value of the property since it was acquired.”

This view is sustained in the Minnesota rate cases, 230 U. S. 458.

From exhibits introduced in this record it appears that from about 1897 to 1915 or 1917 there was a gradual upward rise in all commodities including all classes of material used in the construction and maintenance of street railway properties, and during the war a most violent rise. Prices have already declined and are still declining at a substantial rate. The evidence shows that the general decline at this time as compared with last September is at least 25 per cent. Within the last week various substantial reductions have been made by steel manufacturers for all classes of steel products, including rails, all of

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which show that we are now rapidly approaching normal conditions and the trend prices that existed before the war.

The late Charles A. Prouty, for many years a member of the Interstate Commerce Commission, and since 1914 Director of the Division of Valuation of that Commission, in charge of evaluating the properties of all the steam carriers in the United States, in an argument before the Interstate Commerce Commission on final value, January 7th, 1920, said:

"I take it that you are to use the depreciated cost of the property. And that has been decided by the Supreme Court. It was decided in the Knoxville Water Case. It was decided in the Minnesota rate cases, the last case in which that matter was discussed. So \* \* \* you start out with cost less depreciation the cost of that property less the depreciation of the property, or the cost of the property in its present conditions.

"But the Supreme Court has indicated that to that depreciated cost you must add certain values, you must add something on account of appreciation."

Therefore in fixing the value of this property current prices or the appreciated values will be considered. How much weight should be attached to present-day prices is a question that cannot be determined by any hard and fast rule. Certainly, while sufficient consideration must be given them, it would manifestly be unjust to make them the sole test of fair value.

Appraisals made following the theory of cost of reproduction new necessarily cover appreciation to the time of the appraisal. In this record appraisals on pre-war basis reflect the appreciation to about 1912, excepting lands which are appraised at present-day prices, therefore all appreciation, if any, in lands would be taken care of. Another important recognition of present-day prices results from the fact that the additions made to this property since January 1st, 1916, have been included at the actual full wartime cost.

Complying with the rule laid down by the United States Supreme Court, as we understand it, and after carefully considering all the evidence as to the general upward trend of prices, and also giving due consideration to present-day prices, the Board finds and determines that an allowance for appreciation is reasonably represented by \$12,000,000.

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## DEVELOPMENT COST OR GOING VALUE.

In view of the settled law on this subject in this State and in the United States the question of making an allowance for going value is no longer open to discussion. That a going concern has a value over and above the value of the physical property employed is self-evident. From the very nature of this element of value it cannot be arrived at with mathematical accuracy, but must necessarily be considered in the light of all the facts in each particular case.

*Des Moines Gas Company v. Des Moines*, 238 U. S. 153.

*Denver v. Denver Water Co.*, 246 U. S. 178.

*Cedar Rapids Gas Light Co. v. Cedar Rapids*, 144 Iowa 426; 120 N. W. 966; 233 U. S. 655; 32 Sup. Ct. 389.

Discussing the question of the propriety for any allowance of going value, the Supreme Court in what is known as the Passaic Gas Case, said:

“We think both on weight of authority and on reason there should be such an allowance. \* \* \* the necessary loss attending experiments that promise improvement, the obsolescence of plant apart from the ordinary calculable depreciation which may be charged to current expenses instead of being capitalized, the expense that must attend and the additional value that arises of a great industry with a view to economical production, and the cost of procuring capital for the original works or subsequent extensions. \* \* \* The legal question is whether these items constitute a going value upon which the company is entitled to a return if the individual rate is to be just and reasonable. To this we answer yes.”

*Public Service Co. v. P. U. Bd.*, 84 N. J. L., pp. 476-477; 87 N. J. L., p. 581.

The Public Service Railway Company, as heretofore stated, is an amalgamation of a large number of separate entities. As a result there is a uniform operation which gives to the system as a whole a greater value than would accrue from the operation of its numerous parts as separate and distinct units. The value of the system as a whole is materially in excess of the value of the mere physical property of these units.

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After giving due consideration to all the evidence in this particular case bearing upon that element of value known as "going value" and to all the facts having any bearing upon this matter, the Board finds and determines that an allowance for going value is reasonably represented by \$12,000,000.

#### HISTORICAL COST.

Reference has already been made to the fact that Mr. Clark Wolff, in accordance with a program laid down by counsel for the municipalities, made a study of all the available books of the old underlying companies including the minute books and all other records that could be found. His object was to ascertain, if possible, the actual amount of money which had been expended in one way or another in connection with the construction and development of the various properties now making up the Public Service Railway Company system.

He went at this study in two different ways, both of which led to results fairly consistent with one another. His first method was by adding together various items which he classified as excess capitalization. He obtained the items which are added together from various minute books, articles of consolidation and the like. For example, where in an agreement of consolidation it appeared that \$6,400,000 of stock and \$6,400,000 of bonds had been issued apparently for no other purpose than the purchase of stock having a face value of \$1,500,000, he classified the difference, \$11,300,000, as excess capitalization. By this method Mr. Wolff arrived at the conclusion that the excess in the face value of capitalization over the amount of money which had actually gone into construction and development was approximately \$66,000,000. Further analysis led him to say that the excess capitalization was approximately \$76,000,000. He accounted for the \$10,000,000 difference by assumptions that construction had been paid for from earnings and partially by advances on the part of the corporation for which it was never reimbursed and which advances so far as they related to construction were not capitalized, and, therefore, were not reported. These statements were merely approximate and later on put concretely in the form of exhibits. While Mr. Wolff testified in considerable detail as to the resulting increase in capitalization on the occasion of several different consolidations and purchases of securities, for the purpose of this report the statement above as to the aggregate is sufficient.

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Mr. Wolff's second method involved the ascertainment from all available sources of the amounts directly charged to construction and other capital accounts. His Exhibit O-504a indicated an aggregate actual cost of \$93,662,873. On cross-examination (testimony, page 5514, October 8th, 1919), Mr. Wolff corrected this to the round figure of \$95,000,000, based upon a study which the company had made of Mr. Wolff's work. Some confusion has apparently arisen as to the meaning of "Historical Cost." This is apparent from the company's brief, page 144, wherein the company deduces as the value of the property the sum of \$95,000,000. The amount of the figure of \$95,000,000 represents the original cost properly chargeable to capital account of all the property ever constructed in connection with these companies which now make up the Public Service Railway Company. It is, of course, subject to correction, but it includes property of the old horse car and cable roads, the old car barns, etc., which disappeared many years ago. Books show that in connection with some companies some items of property have been charged off and the actual aggregate cost of everything ever constructed by the group of companies is higher than the figure mentioned. After accounting, however, for property already charged off, the old horse and cable property long since disappeared, is placed by Mr. Wolff as having cost \$9,464,204. Other property, miscellaneous in character, including ferries, amounted to \$2,527,731.

Ford, Bacon & Davis, in commenting on Wolff's historical cost figure, also made the error of assuming that \$95,000,000 represented the original cost of the property remaining in place today. Ford, Bacon & Davis add to the figures of \$95,000,000 various allowances for overhead charges and intangible elements, etc., and finally arrived at what the company (page 149, company's brief) refers to as historical cost of \$119,150,263. Historical cost as represented by the figure of \$95,000,000 purports to be nothing more or less than the actual money cost of all construction since the beginning of this industry. When used for the purpose of aiding in the determination of the value of property at the present time, "Historical Cost" is the cost as shown by records of so much of the property as is found in place today. It seems inconceivable that both Ford, Bacon & Davis, and the company should have fallen into such errors in their assumptions as are apparent in the brief of the company on pages 148 to 150. In determining value based upon original cost, it may be

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necessary to make certain deductions for accrued depreciation and certain additions for appreciation, but the result so obtained has reference to value and not at all to cost. We have carefully analyzed the testimony and exhibits relating to historical costs of this property and following is the result of this analysis which takes into account the various corrections made on cross-examination.

Statement of Mark Wolff, total as of March 31st, 1919, per Exhibit O-504 .....	\$89,361,752
Deduction after analysis .....	519,864
Historical cost as originally determined by Mr. Wolff.....	\$88,841,888
Additions suggested by the company, admitted by Mr. Wolff on cross-examination .....	4,820,985
Statement by Mark Wolff, per Exhibit O-504a.....	\$93,662,873
Adjustments by Ford, Bacon & Davis, per report of April 11, 1921 (pages 42-46)—	
Additions account work performed by B. M. Shanley.....	1,078,515
	\$94,741,388
Deduction due to errors of transcription.....	\$1,072,980
Deduction due to substitution of actual costs for estimates by Mr. Wolff.....	376,545
Total deductions .....	1,449,525
Total March 31st, 1919, after adjustment by Ford, Bacon & Davis .....	\$93,291,863
Additions, March 31st, 1919, to December 31st, 1920.....	2,562,245
	\$95,854,108
Addition—Correction to December 31st, 1920 a/c Power Plant,	123,315
	\$95,977,423
Deduct rehabilitation expense improperly charged to capital account .....	4,160,854
Total to December 31st, 1920, including superseded Horse and Cable property, Power Plant turned over to Electric Company and Miscellaneous Properties (Ferries, Elevator, etc.).....	\$91,816,569
Deductions per Wilcox Exhibit O-620—	
Superseded horse and cable property.....	\$9,464,204
Power Plant and equipment, plus \$123,315 error,	7,045,280
Total .....	\$16,509,493
Miscellaneous property .....	2,527,731
	19,037,224
Total Historical Cost of Railway Property existing December 31st, 1920 .....	\$72,779,345

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It has been contended by witnesses for the company that the amounts mentioned by Mr. Wolff represent charges to construction for labor and material only (testimony, page 5551, October 8th, 1919). It was also contended that materials and supplies should be added to Mr. Wolff's figures (testimony, page 5552, October 8th, 1919). With regard to overhead charges, attention is directed to Exhibit O-412 entitled "Overheads charged to Construction on books of Public Service Railway Company and certain Underlying Predecessor Companies." Attention is also called to Exhibit O-411 entitled "Interest during Construction charged to Capital Account by Consolidated Traction Company, 1893-1898." Attention is also called to Exhibit O-409 and O-410 which show interest charged to construction account included by Wolff in his aggregate cost. Exhibit O-408 shows the inclusion of engineering costs on the books of the Jersey City, Hoboken and Paterson Street Railway Company. Whatever may be the fact of the matter with regard to the method of classifying charges, it is clear that Mr. Wolff's aggregate figures include all costs properly chargeable to capital account as found on the books of the company.

Mr. Wolff himself calls attention in the exhibits referred to that the relation of these overhead charges to the total amount of construction was quite small, but it must be remembered that a very large part of the engineering and other similar services was furnished by the administrative and operating forces in the employ of the various companies. This again draws attention to the facts developed by historical cost study as compared with estimates of value based upon reproduction cost theories. Historical cost studies have invariably developed the fact that very large proportions of the existing plants of the public utility companies have been constructed directly under the supervision of these utilities and that in most cases the costs have been what are now known as piece-meal costs. They are undoubtedly higher than the basic costs to a contractor operating under efficient conditions and with a large well organized force of men. These historical cost studies have also shown that the associated overhead charges have been small, preliminary expense in connection with the greater portion of the plant development engineering, interest during construction and other similar elements have been very small and were not charged directly to capital account and have been absorbed in operating charges. The result of this would be to hold down the cost

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of the property as charged on the books, but, on the other hand, to increase the development cost due to the reduction in the amount of money available from time to time as net income.

In the reproduction cost method of determining value we assume that the entire property as it exists today is being reconstructed within a comparatively short period of time by a thoroughly organized contractor or group of contractors. The unit costs under such conditions are low; the overhead charges, on the other hand, are always much higher, even when properly classified than when large additions are being made to an existing property by its operating and administrative forces. Generally speaking, the aggregate result in each case should be nearly the same if prices are taken as of the same period of time. The final conclusion as to the historical cost of the property in existence today is as we have shown above.

#### WORKING CAPITAL.

In making up the value of the property of a utility company allowance must be made for working capital. The exact amount of working capital or the proportion which it bears to value of other property will vary considerably with the different utilities. A gas company, for instance, must have on hand a sufficient quantity of materials and supplies to meet operating expenses and insure continuity of service, all of which must be paid for, and expenditures of such character form part of the investment actually made before customers are served at all and before collections of revenue can be made. Indeed, before a gas company can collect many of its bills it will have rendered service from a month to a month and a half, and it has made an investment during that period corresponding to the entire cost of operation up to the time it can commence to collect money from its customers. An electric light or water company is in much the same position as the gas company.

A street railway company, on the other hand, is in a somewhat different position, due to the fact that it collects its revenue at the time it furnishes the service. In other words, its business corresponds exactly to that of the merchant who conducts what is called a "cash and carry" system. Its need for working capital is, therefore, not

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quite the same as that of the ordinary utility which furnishes its service through meters.

An examination of the inventory and of the books of the company leads to the conclusion that the company, in its judgment, has found it necessary to carry in its various storerooms considerable quantities of the numerous and varied parts required in maintenance of its property. Some study also shows that a part at least of materials and supplies carried in storerooms is finally used for purposes properly chargeable to capital account. If interest during construction is included in the valuation upon all of the items going to make up the structural whole, a partial duplication occurs by including in our allowance for working capital so much of materials and supplies as are held for strictly construction purposes. It is found, however, that in the year 1918, for which a careful analysis was made, but 17.5 per cent. of such property finally found its way into the construction account, and under all the circumstances it is not necessary to draw any fine distinctions as the effect on the final result would be practically negligible.

Cooley, in his report (page 128), finds that the average material and supplies over a period of five years was approximately \$690,000. Ford, Bacon & Davis, taking part of their information from the books and partly from materials found in the storerooms, arrive at a total of \$1,520,000. The annual reports of the company show that in 1911 there was material and supplies amounting to \$611,757. This amount has risen as high in 1916 as \$982,710; was down to \$383,835 in 1915, but rose in 1920 to \$1,081,936.

With regard to the cash required in the operation of the company, Cooley estimates (page 7 of his report) by deducting current liabilities from current assets, the amount \$918,000. Ford, Bacon & Davis estimate that the amount needed is equal to the average monthly operating expense less the average monthly charge for depreciation, or, in other words, about \$1,860,000.

The Board therefore finds and determines that working capital is needed by the company for two purposes:

1. Because of investment in materials and supplies.
2. To cover the amounts needed in advance to meet charges for insurance, licenses, and other similar items, in the aggregate.

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In the opinion of the Board, one million and a half dollars is amply sufficient for these purposes. No cash advances are required as a part of working capital to meet any other charges in advance of the receipt by the company of money from the customers served by it.

## FAIR VALUE.

In the case of *Smyth v. Ames*, 169 U. S. 466, the Supreme Court of the United States, Mr. Justice Harlan speaking for the court, said:

“We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property.”

\* \* \* \* \*

“What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.”

\* \* \* \* \*

“Value is a shifting, variable thing, depending upon many factors—the money markets, shifting populations, demand, competition, politics, weather conditions, taxes—the varied opinions of men and the rates themselves all have to do with

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the rise and fall of values. To say that rates are to be based upon the value of the property, using the term in its usual and ordinary sense, is to say that the rates shall be based upon one premise today, and another tomorrow. So we must conclude that when the courts said that rates were to be based upon 'fair value' they could not have meant to use the word 'value' in the sense in which the word is ordinarily used and understood."

In the Minnesota rate cases, 230 U. S. 352, the Supreme Court of the United States, Mr. Justice Hughes, speaking for the court, said:

"The basis of calculation is the 'fair value of the property' used for the convenience of the public. *Smyth v. Ames*, 169 U. S. 546. Or, as it was put in *San Diego Land and Town Company v. National City*, 174 U. S. 757: 'What the company is entitled to demand, in order that it may have just compensation, is a fair return upon the value of the property at the time it is being used for the public.' See also *San Diego Land and Town Company v. Jasper*, 189 U. S. 439, and *Willcox v. Consolidated Gas Company*, 212 U. S. 19, 41.

"The ascertainment of that value is not controlled by artificial rules. It is not a matter of formulas, but there must be a reasonable judgment, having its basis in a proper consideration of all relevant facts. The scope of the inquiry was thus broadly described in *Smyth v. Ames* (169 U. S. 466, 546, 547): 'In order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.'"

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In the case of the State Public Utilities Commission, ex rel. The City of Springfield, Appellant, *v.* The Springfield Gas and Electric Company, Appellee, 125 N. E. 891, decided February 6th, 1920, the Supreme Court of Illinois said:

“It would be equally as unfair to the consumer to fix the rate at a figure which would produce a reasonable income on a value determined by the cost of reproduction new at the time when cost of construction was abnormally inflated, as it would be unfair to the public utility to compel it to serve the public for a rate that would produce a reasonable income on a value determined by cost of reproduction new at a time when the cost of construction was abnormally low. Therefore, it cannot be laid down as a rule without qualifications that cost of reproduction new, less depreciation, is the only basis of valuation for rate-making purposes. It is equally true that the original cost of construction, less depreciation, cannot be held to be the only proper basis for determination of value for rate-making purposes. As we have pointed out heretofore in this opinion, the weight of authority is that every element having any bearing on the situation must be considered in the investigation and then sound business judgment applied to the determination of a valuation that is fair and just to the consumer and the utility. Each case must be considered on its own merits and such result of value arrived at as may be just and right in each case. It is not a matter of formulas, but there must be a reasonable judgment having its basis in a proper consideration of all relevant facts. We consider any value a fair value which fair and reasonable men would say ought to be attached to the property, under all circumstances of the particular case, for the purpose of measuring a return which the public should pay to the owner.”

We understand that it is the contention of the company that in determining value for the purpose of establishing just and reasonable street car fares, the greater weight should be given to present-day prices (brief, page 40). In fact, this record contains the evidence of many experts employed on the part of the company in which they have testified to a value based on prevailing prices during 1920 and the early part of 1921, which inflates the value of the property to approximately twice that obtained by the use of pre-war prices.

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It seems to us this contention is fully answered by Mr. Justice Harlan, speaking for the Supreme Court of the United States, in the case of *Smyth v. Ames*, *supra*, where he said:

“To say that rates are to be based upon the value of the property, using the term in its usual and ordinary sense, is to say that rates shall be based upon one premise today and another tomorrow. So, we must conclude that when the courts said that the rates were to be based upon ‘fair value,’ they could not have meant to use the word ‘value’ in the sense in which the word is ordinarily used and understood.”

In connection with this expression of Mr. Justice Harlan, we call attention to the statement of the late Charles A. Prouty appearing in a memorandum filed with the Interstate Commerce Commission several years ago where, in speaking of value, he said:

“It is a thing which has come into existence in connection with the regulation of public utilities. It has never been defined by any economist or dictionary maker. It has been described by the courts and is that sum upon which under all the circumstances and upon fair consideration of all the facts and elements to be taken into account a fair return should be permitted. I doubt if any definition can ever add to this description of the thing itself.”

Furthermore, the contention of the company is contrary to the holdings of the Supreme Court of Illinois, in the Springfield Gas Case, *supra*, which the company has quoted approvingly in its brief in dealing with other matters.

Mr. Justice Hughes, in the Minnesota Rate cases, *supra*, in speaking of fair value, said:

“The ascertainment of that value is not controlled by artificial rules. It is not a matter of formulas, but there must be a reasonable judgment, having its basis in a proper consideration of all relevant facts.”

The Supreme Court of Illinois, in the Springfield Gas case, *supra*, said:

“We consider any value a fair value which fair and reasonable men would say ought to be attached to the property, under all the circumstances of the particular case, for the purpose of measuring a return which the public should pay to the owner.”

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Can any fair and reasonable man say at this time that the public served by this company should pay a fare based upon the abnormally high prices caused by the great World War, which prices, according to the evidence, in the last six or eight months have already declined 25 per cent. or more and the trade papers with each issue noting further declines? We think this question is fully answered by former Justice Charles E. Hughes, acting as a referee in the case of Brooklyn Borough Gas Company *v.* Public Service Commission, P. U. R. 1918 F, 335-347, July 24th, 1918:

“To base rates upon a plant valuation simply representing a hypothetical cost of reproduction at a time of abnormally high prices due to exceptional conditions would be manifestly unfair to the public, and likewise to base rates upon estimated cost of reproduction far lower than the actual bona fide and prudent investment because of abnormally low prices, would be unfair to the company. This question of taking the hypothetical reproduction cost under abnormal conditions as a rate base should, of course, not be confused with the necessity of recognizing actual cost of operation, even though abnormal. A public service corporation is entitled to be reasonably compensated for its service, and the actual cost of its operations must always be taken into consideration in determining whether or not it received a fair compensation above that cost. But it is a different thing, after cost has been defrayed, and the question is as to the compensation to be allowed in excess of cost, to take as the basis for a compensatory return an asserted plant value far above the actual investment, which is reached merely by expert estimates of a cost of reproduction under abnormal conditions. This would result in allowing a public service corporation to take advantage of a public calamity by increasing its rates above what would be a liberal return not only on actual investment, but upon a normal reproduction cost, in the view that unless it could make an essentially exorbitant demand upon the public it would be deprived of its property without due process of law. The enforcement of the constitutional guaranty does not require the application of any artificial formula. It has constantly been pointed out that the rate must be what is called ‘the fair value of the property,’ and that as to this there must be a reasonable judgment based on a proper consideration of all relevant facts.”

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Referring again to weight to be given present-day prices in determining fair value for rate-making purposes, attention is called to a recent case, viz., *Potomac Electric Power Company v. Public Utilities Commission of the District of Columbia*, P. U. C. 1920 C. 326. The Supreme Court of the District of Columbia (341) said:

“Reproduction cost less depreciation is but one of the elements of value, and in my judgment ordinarily only a negative element, to be considered in the final determination of fair value. Its use is to throw light upon the actual amount invested, and this can only be done where the reproduction cost is determined as of a fairly normal period. It would lose all value if made as of an abnormal period when prices were abnormally low or high. To be of any assistance or real use, it must be made as of a normal time and the unit cost applied thereto should extend over a sufficient number of years to show a normal trend of prices.”

We have been unable, in view of all of the testimony in the case, to accept the Ford, Bacon & Davis valuation of \$125,000,000 for this property.

The act under which this valuation was made and the amendment thereto passed in 1921 provided that it should be presumptive evidence in any rate proceeding pending before this Board to the extent that the value of the utilities' property was a factor in the fixing of a rate, but said the act also provided that all other evidence of valuation should be considered by the Board.

While we have given consideration to the Ford, Bacon & Davis valuation, in reaching our conclusions, we have also considered, and given such weights as in our judgment it was entitled to, all of the other evidence in the case. Colonel Black, the witness produced by Ford, Bacon & Davis, admitted that this valuation of \$125,000,000 represented neither pre-war costs nor present-day costs, but was an estimate which he made as to what is the value of the property by projecting into the pre-war costs an undefined sum to represent present-day costs. He further admitted that this was a matter upon which engineers might differ and that after all the question of value is one of pure business judgment. He further testified as follows (page 10440, June 13th, 1921):

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“Unfortunately you can’t determine value except on the basis of what the property will bring in; what the profits are. There is no other measure of value; that is the one and only measure. The productiveness of the use of the property determines its value; consequently you have to start from the service and not from the physical property, because there is no basis on which you can build up value if you take the cost of reproducing the property; that may or may not represent the value.

\* \* \* \* \*

“Q. What do you think the limit of the fare is that the traffic will bear?

“Witness—I think it is approximately ten cents.

\* \* \* \* \*

“Q. In other words, you used the highest fare that you thought the traffic would bear in order to find out whether your \$125,000,000 was justified.

“Witness—That is perfectly proper.”

And in the report of Ford, Bacon & Davis, they say:

“It seems to have been the practice in the past to attempt to determine the value of a public utility without regard to the value of the service rendered, placing, as it were, the cart before the horse and resulting in there being no real foundation for the values thus attempted to be established. If the value of the service rendered is once established, the value of the property devoted to the public use is readily determined by ordinary economic considerations.”

The absurdity of some of the claims of value made by the company is illustrated by the contention of Mr. McCarter that the value of the company’s property for rate-making purposes is \$200,000,000. Assume that the Board allowed the company to collect a fare high enough to pay operating expenses and a seven per cent. return upon a value of \$200,000,000, this would make \$14,000,000 available for dividends on its stock and to pay interest charges on guaranteed stock and rentals on underlying companies, amounting to approximately \$5,150,000. Deducting this \$5,150,000 from \$14,000,000 leaves approximately \$8,850,000 with which to pay dividends on its outstanding capital

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stock, or about 18 per cent. Considering the fact that the company never paid over three per cent. dividends (and that amount in only one year), such a return drawn from the riding public would be grossly excessive.

It may be contrasted with Mr. McCarter's statement of 1918 (page 109, testimony of March 26th, 1918):

"The basis of this application is the request to this Commission to put us back on the 1916 basis."

In 1916 the company paid three per cent. on its outstanding capital stock, the highest ever paid. From 1911 to 1917, inclusive, it paid dividends averaging 1.817 per cent. In 1917, when it paid out \$1,096,461 dividends, it was enabled to do so only by failing to credit its depreciation reserve with amounts comparable with those of the immediate preceding years. In none of those years could it be claimed that its earnings were limited by either adverse action or failure of action on the part of this Board, no application for relief to the Board having been made until 1918.

In fixing a fair rate of return, it is proper to take into consideration the previous earnings of the company under its franchise contracts, prescribing the rate of fare it was permitted to charge, before it was relieved of the limitations of such contracts.

TABLE I.

## COMPARISON OF ADJUSTED APPARATUS.

Acct. Nos.	Item.	Cooley.	Ford, Bacon & Davis.	Historical (Wolff).
504 to 529	Way and Structures (Land not included) .....	\$32,440,047	\$32,609,924	.....
530 to 538	Equipment .....	12,380,702	12,606,924	.....
	Sub-total .....	\$44,820,749	\$45,443,405	.....
	Structural Overheads—	Note (1)	Note (2)	

Note (1). Accounts 501 and 546 same percentages are applied as used by Cooley.

Account 547, interest of 7 per cent., and Account 549, taxes of 1 per cent., to all preceding items.

Note (2). Actual amounts and percentages allowed as estimated by Ford, Bacon & Davis, adjusted to December 31st, 1915, and excluding land.

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Acct. Nos.	Item.	Cooley.	Ford, Bacon & Davis.	Historical (Wolff).
538-a	General Contingencies .....		\$563,436	
501	Engineering and Superintend- ence .....	\$1,860,616	2,300,342	
546	Law expenditures (and ad- ministration) .....	1,107,259	1,150,171	
547	Interest during Construction..	3,350,034	3,140,542	
549	Taxes during Construction..	478,576	445,116	
	Sub-total Structural Over- heads .....	\$6,865,485	\$7,509,007	
	Sub-total Structures and Equipment .....	\$51,686,234	\$53,043,012	
	Net Additions, 1-1-16 to 5-31-21 (Land not in- cluded) .....	11,344,577	11,344,577	
	Total Structures and Equipment, 5-31-21.....	\$63,030,811	\$64,387,589	
	Land—			
502-a	Right of Way.....	\$2,426,060	\$2,426,060	
502-b	Special improvement to right of way .....	245,474	253,991	
503	Other Land .....	6,028,652	6,028,652	
	Total Land .....	\$8,700,186	\$8,708,703	
	Total Land and Struc- tures, 5-31-21 .....	\$71,730,997	\$73,096,292	
	Deductions—			
A	Excess of book cost over pur- chasing price of property in- stalled for the Emergency Fleet Corporation .....	\$633,408	\$633,408	
B	Wagon Elevators and Ferries—			
	Land .....	629,895	629,895	
	Structures .....	1,611,898	1,648,205	
	Total Deductions .....	\$2,875,201	\$2,911,508	
	Total Land and Structures useful for Railway pur- poses, 5-31-21 .....	\$68,855,796	\$70,184,784	Note (3)
	Taken as .....	\$69,000,000	\$70,000,000	\$72,779,345

Note (3). Additions 5 months of 1921 not included, as they are approximately offset by deduction of items above on account of Emergency Fleet Corporation.

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Three estimates of physical cost of the properties were presented in evidence, excluding intangibles and everything else except pure physical costs. These estimates are as follows:

Cooley, cost new, approximately .....	\$69,000,000
Ford, Bacon & Davis, cost new, approximately.....	70,000,000
Wolff, cost new (historical), approximately.....	72,779,345

Taking the figure of \$70,000,000 which we consider as the cost new of the property, we deduct therefrom depreciation and add to the resultant, appreciation, going value and working capital. Cooley's estimate of depreciation is approximately \$9,000,000; Ford, Bacon & Davis' \$14,900,000 and Wilcox's (based on Wolff's historical cost) \$14,510,000. We have concluded that the sum of \$13,500,000 is a proper amount upon all the testimony on this point.

As to appreciation, Ford, Bacon & Davis set up no specific figure, nor is it practical to use the Cooley estimate in view of the excessive allowances made by him for overheads and intangibles, etc. We have, as before stated, arrived at an estimate of \$12,000,000 based upon the average annual appreciation of these properties since 1897 plus an additional allowance to cover war-time prices.

As to materials, supplies and cash, designated under the general term "Working Capital," we have, for the reasons comprehensively set forth in this report, allowed to sum of \$1,500,000.

The following is a statement in more itemized form:

Physical cost or value.....	\$70,000,000
Less depreciation .....	13,500,000
Sub-total .....	\$56,500,000
Add appreciation .....	12,000,000
Add working capital .....	1,500,000
Add going value .....	12,000,000
Total .....	\$82,000,000

After considering all the evidence in this case relating to the value of the properties of the Public Service Railway Company, the historical cost, cost of reproduction new, accrued depreciation, appreciation, including all overheads, going value, contingencies, cash working capital, materials and supplies and all other elements of value, tangible

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and intangible, and having considered the company as a going concern with attached business, we find and determine that the fair value for rate-making purposes to be \$82,000,000.

OPERATING EXPENSES AND TAXES.

As a preliminary to a determination of the operating revenue deductions to be provided for the ensuing year beginning August 1st, 1921, it will be necessary to approximate the number of passengers which the company may expect to transport during that year. In making this estimate and all other estimates hereinafter following, the Board will consider all the evidence adduced since the beginning of this case by the company filing its original application on March 5th, 1918. This will include also the annual reports of the company and the monthly reports showing operating results and also monthly reports showing wages paid, duly classified.

ESTIMATE OF PASSENGERS TO BE TRANSPORTED DURING THE  
ENSUING YEAR.

In Exhibit P-9 of the so-called ten-cent fare case the applicant estimates 380,264,875 base fare passengers and 84,384,374 paid transfer passengers to be carried during the year under the existing schedule of rates. This estimate was based on the assumption that five per cent. more passengers would be carried during the year covered by the estimate than the year 1920, this being the average annual increase as testified to by the company's witness.

An examination of the annual reports of the company indicates that there have been increases and at times decreases in the number of passengers transported, but that over a period of years there has been a progressive increase. At the last hearing held on June 30th, 1921, testimony was submitted showing that on the basis of substantially six months' operation the increase over 1920 was 1.31 per cent. For the purpose of this report, therefore, the Board will assume that the number of passengers to be transported during the year

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beginning August 1st, 1921, will be 1.31 per cent. more than those transported during 1920. This leads the Board to find that the following passengers will be transported during that period, viz.:

Base rate fares .....	361,130,000
School fares .....	5,300,000
<hr/>	
Total first fares .....	366,430,000
Transfer fares on 2c. basis.....	75,000,000
<hr/>	
Total of all fares.....	441,430,000

The car miles necessary to carry 361,691,558 passengers in 1920 were 59,992,805 and the car hours were 6,498,917. The Board finds and determines that it will require 60,268,000 car miles to transport the above passengers and that the number of car hours required will be 6,500,000. The number of car miles per car hour in 1920 were 9.231. In five months of 1921 this ratio has increased to 9.272 miles per car hour. For this reason a larger number of car miles is indicated for substantially the same car hours.

The testimony before the Board is that the effect of a raise in fare is to temporarily decrease traffic but within a period of three or four months the resentful passengers will resume their former riding habits. In Mr. McCarter's opinion, the result of increasing from a base fare (including transfer revenue) of 7.22 cents to 10 cents (with no transfer revenue), an average increase of 38.5 per cent., will decrease traffic from about 380,000,000 estimated in Exhibit P-9 to 330,000,000 passengers, a percentage decrease of about 13 per cent.

The company has complained bitterly of the effect of jitney competition upon its business.

Under an act passed by the last Legislature, the regulation of jitney buses is now, in so far as they compete with street railway transportation, within certain defined limits, placed under the jurisdiction of this Board; and it may be assumed that, within those limits, jitney competition will be controlled in accordance with the requirements of public convenience and necessity and will be so regulated that unlimited competition not required for such purposes will be held in check.

For the small increase in fare hereinafter permitted, the Board finds and determines the following estimate to be reasonable:

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Base rate fares .....	361,130,000
School fares .....	5,300,000
<b>Total non-transfer fares .....</b>	<b>366,430,000</b>
Transfers, on 2c. basis, approximately .....	75,000,000

With these findings as to the number of passengers to be transported, the number of car hours and car miles to be run by the company during the ensuing year, the Board is in a position to determine the reasonable amounts to be provided out of rates for operating expenses and taxes. In order that the estimates of the company may be compared with the findings of the Board with respect to each group of items, the figures shown in Exhibit P-9, based on a seven-cent fare schedule, and the figures shown in Exhibit P-4 (revised), based on a ten-cent fare schedule, are set up in parallel columns under groups of expenses and deductions therefrom, and operating expenses as found by the Board to be reasonable are set up in columns parallel therewith. These are assembled in Table II which follows:

TABLE II.

ESTIMATES MADE BY THE COMPANY IN EX. P-4 REVISED AND IN EX. P-9 COMPARED WITH THE AMOUNTS DETERMINED BY THE BOARD TO BE JUST AND REASONABLE (BASED ON A VALUATION OF \$82,000,000).

Items.	Exhibits in Ex. P-9 Results Un- der 7c. Fare	10c. Fare Case Ex. P-4 Revised Results Under 10c. Fare	Reductions from P-4 Made by Board	Amounts as Determined by Board
<b>I. Way and Structures—</b>				
Current maintenance and repair accounts.	\$2,600,000	\$2,600,000	\$260,000	\$2,340,000
Depreciation .....	1,398,956	1,398,956	498,956	900,000
<b>Total .....</b>	<b>\$3,998,956</b>	<b>\$3,998,956</b>	<b>\$758,956</b>	<b>\$3,240,000</b>
<b>II. Equipment—</b>				
Current maintenance and repairs .....	\$2,400,000	\$2,400,000	\$100,000	\$2,300,000
Depreciation .....	451,710	451,710	251,710	200,000
<b>Total .....</b>	<b>\$2,851,710</b>	<b>\$2,851,710</b>	<b>\$351,710</b>	<b>\$2,500,000</b>
<b>III. Power .....</b>	<b>\$3,686,256</b>	<b>\$3,570,967</b>	<b>\$206,207</b>	<b>\$3,364,700</b>
<b>IV. Conducting Transportation .....</b>	<b>9,522,765</b>	<b>9,137,643</b>	<b>1,010,439</b>	<b>8,127,204</b>
<b>V. Traffic .....</b>				

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Items.	Exhibits in Ex. P-9 Results Un- der 7c. Fare	10c. Fare Case Ex. P-4 Revised Results Under 10c. Fare	Reductions from P-4 Made by Board	Amounts as Determined by Board
VI. General and Miscel- laneous .....	\$2,422,177	\$2,422,177	\$326,000	\$2,096,177
Operating expenses ..	\$22,481,864	\$21,981,453	\$2,653,312	\$19,328,141
Taxes .....	2,419,139	2,743,336	363,336	2,380,000
Total revenue deduc- tions .....	\$24,901,003	\$24,724,780	\$3,016,648	\$21,708,141
Return indicated ....	2,984,827	6,300,373	457,873	5,842,500
Total operating rev- enue .....	\$27,885,830	\$31,025,162	\$3,474,521	\$27,550,641
Car miles per car hour,	9.080	9.419	.....	9.272
Car miles run .....	61,937,235	60,000,000	.....	60,268,000
Car hours run .....	6,881,600	6,370,000	.....	6,500,000
Revenue fares number.	380,264,875	306,000,000*	.....	366,430,000
Transfer fares number,	84,384,374	70,000,000	.....	75,000,000

It should be remarked that Exhibit P-9 and Exhibit P-4 (revised) were originally prepared towards the close of the year 1920 and do not, therefore, take into account many of the changes in operating conditions effective since that time, except for a small adjustment in the amount allowed for the power group in Exhibit P-4 (revised). The amounts found by the Board, however, take into account the reduction in wages effective August 1st, 1921, the decrease in the number of man hours per car mile run and the effect of the change in rules for overtime as revealed by the monthly operating statements since the first of the year. The change in rules and the decrease in the man hours effect a very considerable saving, more especially marked in group No. IV, "Conducting Transportation." The changes made in each group will now be discussed.

*Group I, Way and Structures.* This is subdivided into the accounts relating to "Current Maintenance and Repairs" and to the amount to be set aside for the amortization of accruing "Depreciation in Way and Structures." The witnesses for the company and the inspectors of the Board concur in the statement that the condition of the track and roadway of the company is not what it should be to give safe, proper and adequate service throughout its lines; the Board finds and

\* Revised to 330,000,000 in testimony, June 30th, 1921.

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determines that the sums contemplated by it to be spent for such maintenance and repair are reasonable, except as modified, first, by the decrease in the wages to be paid the men working on maintenance and repair of Way and Structures and with respect to the amount estimated by the applicant's witnesses with respect to the cost of Cleaning and Sanding Track and of Removal of Snow and Ice. This finding carries with it the obligation on the part of the company to forthwith put its track and roadway in first class condition as soon as may be practicable.

In Table III will be shown for the years 1916 to 1920 the cost of Cleaning and Sanding Track and of Removal of Snow and Ice, respectively, for those years.

TABLE III.

EXPENSES OF (A) CLEANING AND SANDING TRACK AND (B) REMOVAL OF SNOW AND ICE FROM 1916 TO 1920, INCLUSIVE, ADJUSTED.

	Cleaning and Sanding Track.	Removal of Snow and Ice.	Totals of Both.
1916 .....	\$83,658	\$51,800	.....
1917 .....	83,310	75,100	.....
1918 .....	86,426	45,848	.....
1919 .....	120,705	11,541	.....
1920 .....	(1) 121,726	(1) 223,854	.....
Five-Year Total .....	\$495,825	\$408,122	.....
Average per Year .....	\$99,165	\$81,625	\$180,790
Estimate P-4 and P-9 ...	150,000	200,000	350,000
Reduction .....	\$25,835	\$118,375	\$169,210
Reduction taken as .....			170,000
Amount as found necessary.....			180,000

(1). Taken at 90% of 1920 book figures to reflect wage reduction, effective August 1st, 1921.

In preparing Table III, a five-year period ending December 31st, 1920, has been taken for the accounts, Cleaning and Sanding Track, and Removal of Snow and Ice. For the years 1916 to 1919, inclusive, the figures are book figures. The year 1920 is modified by a reduction of ten per cent. in order to give weight to the wage reduction to be put into effect August 1. With this year's figures adjusted, an average per year for cleaning and sanding track is \$99,165, against the com-

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pany's estimate of \$150,000 for the same item. With respect to the removal of snow and ice, the five-year average is \$81,625, as compared with the company's estimate of \$200,000. A total of the two five-year averages is approximately \$180,000, which, deducted from the \$350,000 estimated by the company, would represent a decrease from their estimate of \$170,000. The Board regards this as a reasonable method of estimating these costs for the reason that we are now on the downward trend of prices and by taking the five years in the past as representing the cost for the five years in the future, the downward trend will be taken as the equivalent to the upward trend up to December 31st, 1920. With respect to other wage items, a figure of \$90,000 is taken. Mr. McCarter, on page 10,936 of the valuation case, estimated a reduction in total wages as \$89,100 in the ways and structures group; this may be taken as \$90,000 without sensibly affecting the rate of fare.

It will be noted that the cost of the first two items mentioned (aggregating \$170,000) has no direct relation to the maintenance and repair of Way and Structures proper and the deduction of this amount does not impair the company's ability to carry through its program of rebuilding and reconstructing its track and roadway as set forth in the testimony in the case. The Board's figures allow for this expense substantially the amount required as set forth in the testimony of the company's witnesses corrected for wage adjustments.

*Depreciation of Way and Structures.* The claim of the company with respect to this item aggregates \$1,398,956 and for the Group II, Equipment, a further sum of \$451,710 is claimed. The aggregate of these two amounts is \$1,850,666. The company arrives at this figure in the following manner. The applicant assumes that, under the Board's findings effective August 1st, 1918, it was entitled to charge \$800,000 for each of the years 1918, 1919 and 1920, less the amount actually charged to expense and concurrently credited to depreciation reserve during those years, and that it is entitled to recoup the deficiency in such aggregate amount over a period of three years from the effective date of the order in this case. This averages \$650,666 per year for three years. In addition thereto the company asks the Board to increase the amount of \$800,000 currently to be charged per annum to expenses to \$1,200,000. There is, in the opinion of the Board, no proof in the records to justify the necessity of this increase. The

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company's method of dealing with amortization of depreciation does not involve the charging of all retired property to that account. When track and roadway is torn up and rebuilt with the same rail and material (except with respect to certain minor parts which must be renewed) the original cost of such track is charged directly to operating expenses and the added increase in value is charged to capital account. The cost of such retirements then will be borne in Way and Structures accounts by the \$2,340,000 allowed for current repairs and maintenance. This will accord with the accounting practice of the company effective during the past ten years. When, however, track is torn up and reconstructed with new material, the depreciation reserve is chargeable with *original cost* of such track and roadway plus the cost of removal less the salvage recovered from the track retired, and capital account is credited with the original cost of property so retired. The cost of removal will be higher per unit now than in pre-war days, and on the other hand salvage value has increased. The original cost of property per unit to be retired is not materially different now from the similar cost in 1915 and 1916. The cost of removal is materially increased by current labor costs and this increase (a small part of the total debit to reserve) is reflected in the Board's findings.

It will be evident from the foregoing that the depreciation reserve under the system of accounts prescribed by this Board is properly chargeable *only* with the *original cost* of the property retired less salvage plus the cost of removal thereof, if known, or with the best estimate of original cost that the engineers and auditors of the company can make. An examination of Exhibit P-10 of the so-called ten-cent fare case will show that for the years 1911 to 1917, respectively, the largest debit ever made to this account for all classes of property amounted to \$522,721.73 (in 1915) and the average for the seven years shown thereon approximated \$410,000 per annum. Testimony in this case is that up to the end of 1917 the property of the company was maintained adequately and that the track was reconstructed under the company's normal program. If, then, the company be allowed the \$800,000 from the effective date of the Board's order in 1918 to August 1st, 1920, less the amounts credited to the reserve by the applicant during the same period, entire justice will be done

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to the applicant in this matter and the amount so set aside will be ample for the proper purposes of the company in view of its accounting practice with respect to depreciation.

An examination of the records of the applicant and of its predecessor, the Public Service Corporation, back to the year 1903, indicates, with respect to Way and Structures, that it has rebuilt with new rail 333.94 miles of track in the public streets and 165.90 miles with the same rail, a total of 499.84 miles out of approximately 800 miles of tangent track now in service in the public streets and highways; that from 1903 to 1917, inclusive, the company reconstructed with new rail or rebuilt with the same rail an annual average of 2.77 per cent. of the average miles of track operated in the public streets during that period; and that the amount charged either directly to operating expenses or provided for by the depreciation reserve set up during those years was ample to take care of such program.

Subdividing this period, an examination of the company's reports indicates that from 1911 to 1917, during which period the company has been filing annual reports with the Board, the company replaced with new rail 134.10 miles of track, an annual average of 2.51 per cent. of the miles in service on the public streets; and relaid with the same rail 126.78 miles, an annual average of 2.38 per cent. of the track in streets; the annual average of the two items being 4.89 per cent. of the track in streets.

With respect to the three years 1918 to 1920, inclusive, the company reconstructed with new rail but 43.65 miles of track, an annual average of 1.82 per cent. of the tangent track in service on the streets and 20.53 miles of track relaid with the old rail, an annual average of 0.85 per cent.; the annual average for the sum of these two items being 2.67 per cent. If the company had maintained the same program of reconstructing or rebuilding as it maintained during the seven years from 1911 to 1917, inclusive, it would have reconstructed 60.05 miles of track with new rail and 56.94 miles of track with the same rail, a total of 116.99 miles. A comparison of the actual reconstruction and rebuilding during the three years ending 1920 indicates a deficiency during that period of 16.56 miles of reconstruction with new rail and 36.72 miles of rebuilding with the old rail, a total of 53.28 miles; and that the ordinary program based on the

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average from 1911 to 1917 would be 20.08 miles reconstructed with new rail and 19.04 miles rebuilt with old rail, a total of 39.12 miles. If the lag in reconstruction and rebuilding be made up in the ensuing three years, this will result in the following annual program for that period, viz.:

Track to be reconstructed with new rail .....	25.60 miles
Track to be rebuilt with old rail.....	31.28 miles
<b>Total annual program.....</b>	<b>56.88 miles</b>

To ascertain the charge to reserve necessary to support this program, we will consider the testimony given by Mr. Danforth on page 229 of the so-called ten-cent fare case, in which, with respect to reconstruction with new rail, he estimates the cost of 239,534 feet (45.37 miles) to be \$2,365,423, this latter figure being apportioned to miscellaneous operating charges \$299,081, to the reserve for depreciation \$1,210,877, and to capital \$855,465. These estimates appear to be very liberal in the Board's opinion. But reducing this to costs per mile of track indicates a total cost of \$52,136, of which \$6,592 is allocated to miscellaneous operating charges, \$26,889 to the reserve for depreciation, and \$18,856 to capital account. Using the same testimony with respect to cost of relaying track with the same rail, the total cost per mile is \$40,927, of which \$27,767 is chargeable to operating expenses, nothing to the reserve for depreciation, and \$13,160 to capital. To reconstruct the 25.60 miles of track with new rails, it would cost, on this basis, \$1,334,681, of which miscellaneous operating charges (that is, current maintenance) would bear \$169,061, the reserve for depreciation \$688,357, and new capital \$482,713. With respect to the 31.28 miles of track rebuilt with old rail, the total cost would be \$1,280,196, of which \$868,552 would be allocated to miscellaneous operating charges, nothing to the reserve, and \$411,644 to capital; a total for the 56.88 miles of reconstructed or rebuilt track of \$2,614,877, of which miscellaneous operating charges would carry \$1,037,613, reserve for retirement \$688,356, and the capital debit chargeable with \$894,357. After three years the charge for retirement of capital would drop down to substantially \$540,000.

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The reason for taking the years 1911 to 1917 as a normal program of the company is revealed by the testimony of the manager of the company as shown on page 368 (ten-cent fare testimony), in which he stated:

“There was not so much reconstruction work undertaken (in the year 1917) and the work had to—the minor work had to be taken care of. There was not accumulated very much deferred work that year. We were going along about the normal schedule, about eighteen and a half miles of reconstructed track. In fact, the property was in good physical condition the end of the year \* \* \* up to December” (1917).

In answer to a question as to whether the condition he then spoke of as being so very bad and requiring so much money had arisen since 1917, the witness replied, “It is since that date.”

NOTE.—From 1914 to 1917, inclusive, 78.45 miles of track were reconstructed with new rail. The charge to the depreciation reserve was \$1,259,087, or \$16,050 per mile. From 1918 to 1920, inclusive, 43.65 miles of track were reconstructed with new rail. The debit to depreciation reserve was \$419,571, or \$9,612 per mile. Mr. Danforth proposes to charge \$26,889.

Prior to the year 1914 the annual reports of the company do not indicate with exactness the charges to reserve for various items of property. From the years 1914 to 1917, however, there was charged to this reserve on account of retirements, \$1,259,087 for track and roadway, an annual charge of \$402 per mile of track in service. The charge for cars and equipment per annum per car in service averaged \$22.78. In addition there was charged for generating equipment and for other fixed capital retired, a total of about \$300,000, or about \$75,000 a year. During the three years ending December 31st, 1920, there was charged to the reserve on account of retirements, \$419,571, an average per year per mile of track of \$175. Relating these deficiencies and charges to the three-year unit involved indicates that the charge to the reserve for track and roadway retirement was deficient to the extent of \$543,000. Adding to this the approximate figure of \$420,000 actually charged to the reserve, indicates that the total for the three years should have approximated \$963,000, which, divided by three, would indicate \$321,000 as the average annual charge which

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should have been made to the reserve to maintain the average of four years to 1918; and that with respect to equipment of cars, the deficiency was \$30,230, which, added to the \$149,149 actually charged to the reserve for retirement of cars, would give approximately \$60,000 a year, which should be charged for that purpose under a normal program. Other items charged to the depreciation reserve during the four years ending December 31st, 1917, aggregate \$303,000, an annual average of \$75,000. The company has certain buildings such as car barns, the terminal and so on, the depreciation in which is accruing, but will not be represented by current charges to the depreciation reserve for property of that class actually retired. The reserve, however, should take cognizance of this fact. The difference between the amounts as indicated hereinabove and \$800,000 will, in the opinion of the Board, take care of these items with a reasonable margin of safety above all charges included in the above calculations, and the \$300,000 per annum will recoup the company for lag in reconstruction and rebuilding.

It is illuminating to note that the largest amount ever appropriated by the company was in 1916, which has been characterized as the company's best year. As shown on Exhibit P-10, the company credited in that year \$728,001 to the depreciation reserve (concurrently charging the same amount to operating expenses). The amounts charged to the reserve during the same year aggregated \$489,038. The company's manager testified that the balance that year (\$511,234) was so large that the company changed its rule for the following year, decreasing its charge to operating expenses by 0.3 cents per car mile.

It is apparent then that during the years 1911 to 1916, inclusive, when the company was in no financial straits, and, according to the testimony of its own witnesses, was keeping its property in "good shape," making the needed reconstructions and retirements year by year under a normal program, the amounts credited to this reserve averaged (Exhibit P-10) about \$490,000 a year and the debits during the same six-year period averaged about \$401,000 per year, and the balance left in the reserve December 31st, 1916, was \$511,234. The retirements made prior to January 1st, 1916, and charged to this reserve, were (as prescribed by the Uniform System of Accounts) required to be made on a basis of *original cost* of the property retired

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and the retirements to be made since that date are to be based on the original cost of the property retired, except with respect to the cost of removal. While the company is, as above indicated, somewhat behind its normal pre-war program of new construction of new rail or rebuilding with old rail to the extent of approximately 53 miles, the cost of retiring that portion of the 53 miles which, under the company's practice, is chargeable to reserve, can be very adequately taken care of by the amount prescribed by the Board in its 1918 order if it be allowed to accumulate the deficiency which it has failed to credit to the reserve during the last three years; and during the ensuing years \$800,000 per annum will be sufficient for the current appropriation for depreciation reserve in addition to the cost of current maintenance.

As has been said hereinbefore, current maintenance takes care of a large part of rebuilding track with the same rail, there being concurrently a small increase in the capital charge due to the higher cost of certain parts used in the replacement. In its exhibits, officials of the company estimate that it should be permitted to recoup itself for a deficiency and credits to the reserve during the ensuing three years.

The Board finds and determines the deficiency as follows: From August 1st, 1918, to August 1st, 1921, the company should have appropriated \$2,400,000. It has actually appropriated during that period the following amounts: from August 1st, 1918, to December 31st, 1918, \$333,333; in 1919 it made no credit to depreciation reserve; in 1920 it credited this account with \$114,669; in the first five months of 1921 it has credited \$432,946; the total of these credits to May 31st, 1921, amounts to \$880,948, which, deducted from \$2,400,000 leaves \$1,519,042, from which should be deducted any credits to the reserve made during June and July, 1921. The Board finds and determines that this amount shall be spread over the ensuing five years. This will involve a charge of substantially \$300,000 a year to make up past deficiencies, and in addition thereto the company shall appropriate \$800,000 per annum as heretofore found by the Board. These appropriations are direct appropriations to the reserve and are to be used for the purpose of retiring property in accordance with the rules laid down in the Board's Uniform System of Accounts for Street or Traction Railway Utilities (First Revised Issue Effective January 1st, 1919), and for no other purpose whatsoever. The aggregate of the

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amount of \$300,000 to make up deficiencies during the past three years and the \$800,000 normal annual appropriation makes a total of \$1,100,000 to be appropriated annually during the next five years, subject to change by order of the Board in either sense as the facts may warrant.

With respect to the allocation of the amount of \$1,100,000 to Ways and Structures and Equipment, that may be roughly determined from the testimony of the company's manager as set forth on page 371 of the testimony of the ten-cent fare case (April 11th, 1921):

"The starvation of the property, if I may put it that way, commenced last year, the latter part of the year, and is continuing. As to the equipment, outside of the writing off of cars, the few cars that have been abandoned, which might remain stored as they are for years without any detriment except occupying space, and save for perhaps being a little behind our schedule in painting, the cars are in as good condition as they would be at any time, and the sum necessary for writing off equipment can readily be calculated for the next ten years, with reasonable certainty. It is not a large sum."

\* \* \* \* \*

"It would not be over \$200,000 a year in any event, as we are running now, for the next five years."

Deducting \$200,000 for Depreciation of Equipment, from \$1,100,000, leaves \$900,000 for the next five years for Depreciation of Way and Structures. The Board so finds and determines.

*Group II, Equipment.* Referring to Table II again, under the Equipment group, the items pertaining to current maintenance of equipment are set forth in a total and the amounts to be credited to depreciation reserve are segregated. With respect to current repairs and maintenance of equipment, a deduction of \$100,000 was made (Test., p. 10936) which, in the Board's opinion, is the amount to be deducted on account of the reduction of wages, effective on August 1st prox. Except with respect to this item the Board accepts the amount of \$2,400,000 as claimed by the Company as a sufficient amount to operate, maintain and put in good repair the equipment of the property of the applicant, before deducting the \$100,000 referred to. The modified figure as shown in Table II is \$2,300,000

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and the Board finds this is a reasonable amount for that purpose. With respect to Depreciation of Equipment, this subject has been discussed under the caption of "Depreciation of Ways and Structures." This makes a total for the equipment group of expenses of \$2,500,000 as contrasted with an amount of \$2,851,710 as set up by the company.

*Group III, Power.* The amount to be paid for power will depend primarily on the car miles run, assuming that the same type of cars are involved in the calculation. In Exhibit P-9, which involves a carrying of about 380,000,000 passengers and the running of 61,937,235 car miles, the company set up the figure of \$3,686,256, which is at the rate of 6.1113 cents per car mile. In Exhibit P-4, which involves the carrying of 306,000,000 passengers and the running of 60,000,000 car miles, the company set up the corrected figure of \$3,570,967, which is at the rate of 5.9516 per car mile. These estimates on the behalf of the applicant were made some months ago. The Board takes as better evidence the average cost of power for the first five months of 1921, during which period the company ran 24,177,306 car miles, at an average cost of 5.583 cents per car mile. This, on an annual basis of 60,268,000 car miles, gives the amount as found by the Board in the sum of \$3,364,760 in round figures. This is a reduction of 0.3686 cents from the cost per mile shown in Exhibit P-4 (revised); and the estimates in both Exhibit P-4 and Exhibit P-9, if revised to correspond to the actual cost of power during the first five months of 1921 (which involve heating during the first three winter months of January, February and March), would reduce the company's estimates for this group of expense materially. The Board finds and determines the amount of \$3,364,760 as the reasonable amount for the cost of power for the ensuing year, based on latest available information.

*Group IV. Conducting Transportation.*

*Group V. Traffic.*

As the expenses under the group of Traffic are so small, they will be combined with the group of Conducting Transportation. In this group of expenses the major item relates to the wages of conductors and motormen, the so-called platform men. The greatest changes made by the Board will be found in this group. The changes are due substantially to three classes of causes:

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1. There has been a revision in the rules with respect to overtime, which shortens the number of hours of overtime for which the company has to pay. These modified rules were gradually effective since January 1st, 1921.

2. The company has put in service a number of one-man cars and trailers which decrease the man-hours per car mile run.

3. There will be, effective August 1st, 1921, a reduction of five cents per hour in the wages for such men. There has also been some increase in the number of car miles traveled per car hour which will decrease the man-hours per car mile.

In the last quarter of 1920, when the company's estimates were made up, the average number of conductors and motormen employed were 4,675 and the man-days worked were 114,364.

In the first quarter of 1921 when the new working rules came gradually into effect, the average number of conductors and motormen employed was 4,426 (a decrease of 249 or 5.326 per cent.) and the man-days worked approximately 100,777 (a decrease of 11.88 per cent.).

During April and May the number of conductors and motormen employed averaged 4,109, a decrease from the last quarter of 1920 of 566 (or about 21 per cent.); the average man-days worked were 96,528 (a decrease of about 15.6 per cent.).

During the first five months of 1921 the car-hours run were 2,607,495, as against 2,607,672 for the same period in 1920; whereas the car miles run in 1921 were 24,177,306 as compared with 23,900,958 in 1920. The car miles per car hour in 1921 averaged 9.272. In 1920 for the same period they averaged 9.166. In view of these facts, the Board feels justified in finding that the company will run 60,268,000 car miles during the ensuing year to take care of substantially the same number of passengers (1.31 per cent. increase), as were run during the calendar year 1920. This corresponds to 6,500,000 car hours.

The man-hours per car-hour during the first five months of 1921 have averaged 1.88 and 6,500,000 car hours will require 12,220,000 man-hours for platform men. The average hourly pay during the five months' period of 1921 has been 55.79 cents. Deducting 5 cents per hour, under wage reduction effective August 1, 1921, leaves 50.79 cents per hour. The total wages which the company may expect to

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pay for the year beginning August 1st, 1921, will, on these findings, be \$6,206,536 for platform labor, a reduction of \$1,010,439.

For Superintendents and Supervisors and for Equipment Department inspectors and foremen working part time on transportation work and for clerks and other supervisory employees, the number of hours worked during the first five months in 1921 were 269,636. The average pay was 62.05 cents per hour and the wages paid during the five months, \$415,517. Expanding these figures into a year of 365 days, indicates that the wage payment for this class of employees will aggregate \$1,004,459. No wage reduction is effective August 1st, 1921, in this group. Other transportation and traffic employees on the basis of the hours worked in the five months amplified into a year, indicates that 900,842 hours will be worked. The wage scale operative during the first five months was 39.27 cents per hour, but on August 1st the scale will be decreased to 34.27 cents per hour, which will indicate a total amount of \$307,719 for the year. Equipment Department employees on part of the time on transportation work worked 184,168 hours during the first five months of 1921 at an average hourly pay of 59.70 cents per hour. Expanding these hours into a year gives a total of 445,134 hours, and from August 1st the average pay per hour will be reduced to 54.70 cents, indicating a total payment of \$243,488. The grand total, then, of all transportation and traffic salaries and wages will be \$7,762,204. Adding to this the expenses of \$365,000 for this group, as testified to and shown in Exhibits P-9 and P-4 (revised) gives an aggregate for the two groups for the ensuing year of \$8,127,204 as found by the Board.

*VI. General and Miscellaneous Expenses.* As set up by the company, the total expenses in this group aggregates \$2,422,177. The Board is not satisfied that the item claimed by the company under the account entitled "Injuries and Damages" is a reasonable figure. Injuries and damages are proportional primarily to the number of passengers transported or the number of car miles run in which accidents from collision with vehicles may occur. The total amount paid during the past five years by the company for this class of expenses has been as follows: 1916—\$710,994; 1917—\$772,805; 1918—\$978,246; 1919—\$1,184,442, and 1920—\$1,297,893. In the first five months of 1921 the amount was \$597,657, which is at the

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annual rate of \$1,194,377. There is naturally some lag between the incurring of the liability for injuries and damages and the actual entering of same upon the expense accounts of the company. The testimony in this case indicates there was a large turn-over in the platform men during the war and a large increase in the number of accidents. There was also testimony that this turn-over has very materially decreased and that the efficiency of the men has likewise increased, which will tend to decrease the number of accidents due to carelessness or to "green" men.

The Board finds that a fair method of estimating the accidents which may occur in the future to be as follows: The aggregate amount paid during the five years ending December 31st is taken and divided by the total number of passengers, whether base fare passengers or transfer passengers, and the average cost of injuries and damages per passenger is thus ascertained. Multiplying that by the total number of passengers estimated to be carried during the ensuing year, indicates that the amount which the company will be called upon to pay during the next few years will be \$1,024,000. This is only fourteen per cent. less than the reduction already effective as indicated by the charges during the first five months of this year. The accidents now being charged up probably occurred a year or so ago; and the effects of the more efficient character of the platform men now employed and the lessened turn-over among this class of employees will undoubtedly be revealed in the future in lessened damages approximating the amount as found by the Board. This amount is substantially \$326,000 less than the \$1,350,000 as estimated by the company. The company's estimate is already indicated to be excessive by the results of the first five months of 1921. The Board finds that a reasonable amount of general and miscellaneous expenses for the year beginning August 1st, 1921, is \$2,096,177.

*Taxes.* Taxes are computed in substantially the same manner as computed by the company's officials with this modification: From taxes on real estate the amount of \$41,900 is deducted from the figures set up by the company, this being a proportional amount of taxes on property hereinbefore excluded as not used and useful. The remaining taxes are determined on the basis of a percentage of the gross revenue finally arrived at, substantially agreeing with Exhibit P-9, omitting real estate as mentioned. The total revenue deductions,

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amounting to \$21,708,141, and the return of \$5,842,500, constitute a total operating revenue of \$27,550,641 necessary for the company to receive from all operating sources with respect to property used and useful, as found in this report, in order to provide the net return aforesaid upon the value of the property as found in this report.

On the company's Exhibit P-8 (Ten-Cent Fare Case) it is shown that the cost of labor, exclusive of Expenses and Depreciations, Cost of Power, Damages Paid, Benefits and Pensions, Insurance, Rent of Track and Facilities, and Taxes, amounted to \$5,267,306 in the year 1914, and in the year 1916, to \$5,865,316; in the year 1918, to \$7,877,864, and in 1920, to \$12,911,043, and that the cost of such labor per revenue passenger carried was 1.701 cents in 1914; 1.663 cents in 1916; 2.244 cents in 1918, and 3.569 cents in 1920. The cost of labor in 1920 is, therefore, 2.463 times the cost of labor in 1914, and the cost of labor per passenger in 1920 is 2.098 times the cost of labor per passenger in 1914. During the war times the company was subject to the orders of the War Labor Board and made many mandatory increases in the wages paid, the aggregate amounting to a large percentage increase as shown above. The salaries and wages are not now under governmental control. With respect to cost of materials, including the same classes of expenses as excluded in the labor item, was \$1,255,212 in 1914, an average per passenger of 0.405 cents in 1920, this cost had increased to \$2,737,318, a cost per passenger of 0.757 cents. The cost of materials in 1920 was 2.181 times the cost of material in 1914, and the cost of material per revenue passenger in 1920 was 1.868 times the same cost in 1914. The aggregate of labor and material for the same classes as before recited for 1920 was 4.326 cents per revenue passenger against 2.106 per revenue passenger in 1914, an increase of 2.220 cents per revenue passenger. Including transfer revenue, the average revenue is 7.22 cents for seven-cent passengers transported in 1920. The other costs for accounts not included in the above computations account for the total increase which the Board has heretofore allowed over and above the five-cent fare existing prior to 1918. Exclusive of the adjustment in the amount of expenses charged on account of the credits to the depreciation reserve, the total of operating expenses and taxes will be less than those expended by the company during the year 1920, due largely to the decrease in the cost of labor and modification of rules for overtime. The total revenue

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deductions in 1920 (that is to say operating expenses and taxes) omitting a charge of \$114,669 for depreciation, aggregated \$22,288,-877 against \$20,698,141, as computed in Table II, omitting \$1,100,000, which is concurrently credited to reserve. Excluding depreciation the contentious items omitted do not exceed a half a million dollars or about a seventh of one cent per revenue passenger. If the \$750,000 of annual depreciation not allowed be included, the total of contentious items included aggregates about three-tenths of a cent per revenue passenger.

The following compilation of standard indices is very illuminating in this connection:

			Reduction of Current	
			Peak Over	From
			1913 in %	Peak, %
			Current	
			1913	
			Average	Peak
				Current
Bradstreet's Wholesale Com-				
modities .....	9.21	Feb./20	July 1/21	
		20.87	10.73	226.6
		May/20	June 1/21	48.6
Dun's Wholesale Commodities..	120.9	263.3	166.1	217.8
U. S. Bureau Labor Statistics		May/20	May/21	36.9
Wholesale Commodities ....	100	272	151	272.0
U. S. Bureau Labor Statistics		June/20	May/20	44.5
Retail Food .....	100	219	145	145.0
Nat. Ind. Conf. Bd. Cost of		July/20	June/1	33.8
Living .....	100	204.5	161.9	204.5
				20.8

The company will reap the benefit of the readjustment of wages due to the making of a new contract with its platform men and other classes of labor, which we have estimated at more than a million dollars.

Furthermore, it is not only a matter of common knowledge of which we may take notice, but it is in evidence in the case that the abnormal prices caused by the war already have had a material decline and are still rapidly declining. This applies to many commodities used in the construction, maintenance and operation of a street railway.

It now becomes necessary to ascertain what schedule of fares will produce the revenue which Table II indicates the company should be allowed to earn. In the opinion of the Board this may best be obtained by increasing the charge for the initial transfer from one cent to two cents, and continuing in force the remainder of the existing schedule. The Board estimates that the revenue to be produced by the existing

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schedule of rates as modified for the year beginning August 1st, 1921, will be approximately as follows:

Revenue other than passenger (company's estimate).....	\$666,000
Revenue from 5,300,000 school fares, estimated at.....	159,000
Revenue from 361,130,000 seven-cent fares .....	25,279,100
Revenue from 75,000,000 transfer fares, at two cents.....	1,500,000
<hr/>	
Total revenue .....	\$27,604,100
Cost of furnishing service (see Table II) (1) .....	27,550,641
<hr/>	
Surplus over cost shown in Table II.....	\$53,459

(1) NOTE.—Made up as follows: Operating expenses *before* depreciation, \$18,228,141; operating expenses, including \$1,100,000 for depreciation, \$19,328,141; taxes, \$2,380,000; return on value of property used and useful, \$5,842,500; totaling \$27,550,641.

#### CONCLUSIONS.

The Board finds and determines:

(1) That the value of the property of the company used and useful in the public service is \$82,000,000.

(2) That the operating expenses of the company, including taxes and depreciation, will not exceed \$21,708,000.

(3) That a return of \$5,842,500 is a fair return upon the above valuation.

(4) That such return will give to the company a rate of slightly over seven per cent. upon such valuation.

(5) That the total requirements of the company, including the said return of \$5,842,500, will be \$27,550,641.

(6) That the increase in the charge for a transfer from one cent to two cents will produce an additional income of approximately \$715,000 a year to the company.

(7) That such increase in the charge for transfers, together with the reduction in cost of operation and wages and the other adjustments in operating expenses as found by the Board, will produce a sufficient revenue to enable the company to meet all its requirements for operating expenses, taxes and depreciation and will afford a reasonable return upon the value of the property used and useful found by the Board.

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We may add that to allow the increase asked for by the company would impose an unnecessary and unjust burden on the public as well as deter from 30,000,000 to 50,000,000 riders from using the company's cars.

The Board finds and determines that the company is entitled to and should have the right to charge two cents for a transfer instead of one cent now charged.

The Board will make an order accordingly.

Dated July 14th, 1921.

APPENDIX I.

APPRAISAL BY COOLEY, AS OF DECEMBER 31ST, 1915.  
BY OPERATING DIVISIONS.

	Cost of Repro- duction, New	Cost of Repro- duction Less Depreciation
Essex Division .....	\$25,395,273	\$22,771,879
Hudson Division .....	22,298,358	19,791,007
Passaic Division .....	6,334,547	5,504,530
Bergen Division .....	6,345,852	5,816,353
Central Division .....	11,539,478	10,371,569
Southern Division .....	8,498,711	7,493,983
Total .....	\$80,412,219	\$71,749,321
Working Capital .....	929,403	929,403
Materials and Supplies .....	693,402	693,402
Grand Total .....	\$82,035,024	\$73,372,126
Less Property of P. S. R. R.....	2,716,984	2,600,512
Total P. S. Ry. Property.....	\$79,318,040	\$70,771,614

APPENDIX II.

COOLEY APPRAISAL—BY ACCOUNTS SUMMARY—ALL DIVISIONS.

	Cost of Repro- duction, New	Cost of Repro- duction Less Depreciation
Way and Structures:		
501 Engineering and Superintendence (See 529B and 538B below).		
502 Right of Way—		
A—Land .....	\$3,682,081	\$3,682,081
B—Special Improvements .....	245,474	245,474
503 Other Land Used in Electric Railway Operations .....	6,705,374	6,705,374

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

		Cost of Repro- duction, New	Cost of Repro- duction Less Depreciation
Way and Structures:			
504	Grading .....	\$2,916,529	\$2,907,005
505	Ballast .....	1,132,204	1,132,204
506	Ties .....	1,534,597	1,050,521
507	Rails, Rail Fastenings and Joints.....	5,221,166	4,079,917
508	Special Work .....	2,113,378	1,461,958
509	Underground Construction .....	.....	.....
510	Track and Roadway Labor.....	3,382,639	3,382,639
511	Paving—		
	A—Special Improvements .....	533,144	533,144
	B—Paving .....	5,572,905	3,952,049
512	Roadway Machinery and Tools.....	78,292	59,367
513	Tunnels and Subways.....	.....	.....
514	Elevated Structures and Foundations...	585,805	527,584
515	Bridges, Trestles and Culverts.....	1,292,685	1,165,905
516	Crossings, Fences and Signs.....	251,893	238,848
517	Signals and Interlocking Apparatus....	219,370	195,939
518	Telephone and Telegraph Lines.....	52,140	49,533
519	Poles and Fixtures.....	1,054,617	854,607
520	Underground Conduits .....	331,823	289,700
521	Distribution System .....	3,135,312	2,809,003
522	General Office Buildings .....	138,300	132,269
523	Shops and Car Houses.....	3,057,883	2,379,740
524	Stations, Miscellaneous Buildings and Structures .....	546,908	417,553
525	Wharves and Docks.....	524,487	443,189
526	Park and Resort Property.....	55,684	53,010
527	Cost of Road Purchased.....	.....	.....
528	Reconstruction of Road Purchased.....	.....	.....
529	Other Expenditures—Way and Struc- tures .....	148,263	121,444
Total—502 to 529 inclusive.....		\$44,513,013	\$38,960,117
529A	Contingencies, 7½% of items 504 to 529 inclusive (and 502B) .....	2,559,416	2,141,449
529B	Engineering and Superintendence on Way and Structures, 5% of items 504 to 529A inclusive (and 502B) .....	1,834,248	1,834,248
Total Way and Structures.....		\$48,906,677	\$42,935,814
Equipment:			
530	Passenger and Combination Cars.....	\$5,895,761	\$4,652,086
531	Freight, Express and Mail Cars.....	.....	.....
532	Service Equipment .....	557,581	392,840
533	Electric Equipment of Cars.....	4,434,210	3,693,992
534	Locomotives .....	.....	.....
535	Floating Equipment .....	810,000	515,750

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	Cost of Repro- duction, New	Cost of Repro- duction Less Depreciation
<b>Way and Structures:</b>		
536 Shop Equipment .....	\$526,466	\$417,358
537 Furniture .....	161,072	122,140
538 Miscellaneous Equipment .....	89,568	60,851
Total, 530 to 538 inclusive.....	\$12,474,658	\$9,855,017
538A Contingencies, 2% of items 530 to 538 inclusive .....	249,493	197,100
538B Engineering and Superintendence on Equipment, 2% of items 530 to 538A inclusive .....	254,483	254,482
Total Equipment .....	\$12,978,634	\$10,306,599
<b>General and Miscellaneous:</b>		
545 Franchises .....	.....	.....
546 Law Expenditures and Administration, 2½% of items 502 to 538B inclusive..	\$1,547,132	\$1,547,132
547 Interest during Construction, 11% of items 502 to 538B inclusive.....	6,807,384	6,807,384
548 Injuries and Damages (included in Unit Prices) .....	.....	.....
549 Taxes, 2% of items 502 to 538B inclu- sive .....	1,237,705	1,237,705
549A Total .....	\$9,592,221	\$9,592,221
550 Miscellaneous—		
A—Organization and Development of the Project, 2½% of items 502 to 549A inclusive.....	1,786,937	1,786,937
B—Cost of Money, 5% of items 502 to 549A inclusive .....	3,573,875	3,573,875
C—Promoter's Remuneration, 5% of items 502 to 549A inclusive....	3,573,875	3,573,875
Total General and Miscellaneous...	\$18,526,908	\$18,526,908
Total Equipment .....	12,978,634	10,306,599
Total Way and Structures .....	48,906,677	42,935,814
Total .....	\$80,412,219	\$71,769,321
Working Capital .....	929,403	929,403
Materials and Supplies .....	693,402	693,402
Grand Total .....	\$82,035,024	\$73,392,126
Less Property of P. S. Railroad .....	2,716,984	2,600,512
Total P. S. Ry. Property .....	\$79,318,040	\$70,771,614

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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## APPENDIX III.

APPRAISAL BY FORD, BACON &amp; DAVIS.

*Public Service Railway Company.*  
*All Divisions.*

Estimated Cost of Reproduction New of the Operative Property as of  
January 1st, 1921.

## SUMMARY OF PUBLIC UTILITY COMMISSION PRIMARY ACCOUNTS.

P. U. C.		Estimated Cost of Reproduction	
Account		Pre-War Av.	Sept., 1920,
Number	Title	Prices	Prices
Way and Structures:			
501	Engineering and Superintendence.....	\$2,660,869	\$4,191,732
502	Right of Way .....	4,430,845	4,781,863
503	Other Land .....	6,001,837	6,001,837
504	Grading .....	2,477,857	6,091,060
505	Ballast .....	1,360,685	2,599,673
506	Ties .....	1,533,631	3,634,570
507	Rails, Rail Fastenings and Joints.....	5,381,808	10,237,305
508	Special Work .....	2,561,894	4,937,945
510	Track and Roadway Labor .....	2,717,178	6,938,434
511	Paving .....	6,260,165	14,312,086
512	Roadway Machinery and Tools.....	85,253	159,880
513	Tunnels and Subways .....	217,867	471,145
514	Elevated Structures and Foundations....	595,572	1,269,267
515	Bridges, Trestles and Culverts .....	1,339,031	2,662,677
516	Crossings, Fences and Signs .....	187,005	387,667
517	Signals and Interlocking Apparatus .....	202,812	458,731
518	Telephone and Telegraph Lines .....	50,791	122,039
519	Poles and Fixtures .....	1,090,651	2,584,225
520	Underground Conduits .....	395,056	961,581
521	Distribution System .....	3,431,267	6,323,816
522	General Office Buildings .....	2,847,529	6,259,725
523	Shops and Car Houses .....	3,176,003	7,539,477
524	Stations, Misc. Bldgs. and Structures ....	419,990	983,702
525	Wharves and Docks .....	552,356	1,346,027

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

P. U. C. Account Number	Title	Estimated Cost of Reproduction	
		Pre-War Av. Prices	Sept., 1920, Prices
Equipment:			
530	Passenger and Combination Cars .....	\$7,226,120	\$17,704,251
532	Service Equipment .....	457,880	1,145,627
533	Electric Equipment of Cars .....	5,110,462	12,108,732
534	Locomotives .....	6,834	17,001
535	Floating Equipment .....	773,160	2,242,164
536	Shop Equipment .....	550,061	1,199,133
537	Furniture .....	240,405	458,019
538	Miscellaneous .....	124,185	188,256
General and Miscellaneous:			
546	Law Expenditures and }	\$1,513,006	\$2,376,242
550	Administration }		
547	Interest during Construction.....	5,301,194	14,558,074
549	Taxes during Construction .....	619,620	1,236,063
550	Miscellaneous—		
	(a) Pre-Construction Costs .....	2,066,023	2,689,735
	(b) Auxiliary Operation Items .....	172,403	438,739
	(c) Financing Expenses .....	3,738,400	11,485,100
Additions to Capital Account .....		628,173	1,514,160
Going Value .....		4,710,000	13,170,000
Consolidation Value .....		5,600,000	11,700,000
Total .....		\$88,815,887	\$199,489,560

## NOTE:

Average per cent. condition of the physical property..... 80%  
 Operating efficiency of the physical property and organization.. 86%

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

APPENDIX IV.  
COMPARISON OF APPRAISALS AND OVERHEAD CHARGES.

	F.,B.&D., % 1920.	F.,B.&D., % 1915.	Cooley, % 1915.	Feustel, % 1915.	Bacon & Davis, Pre-War Prices, 12-31-20	Ford, Bacon & Davis, Pre-War Prices, 12-31-15	Cooley, 12-31-15	Feustel, 12-31-15
1. Labor and Material.....	100	100	100	100	\$61,987,397	\$55,798,758	\$55,088,188	\$55,088,188
2. Omissions and Contingen- cies .....	1.00	1.01	4.90	0	619,378	563,436	2,699,027	None
3. Engineer and Superintend- ence .....	4.29	4.21	3.65	3.38	2,660,869	2,352,110	2,000,412	2,460,143
4. Legal and Administrative Exp. ....	2.44	2.43	2.71	2.72	1,513,006	1,357,279	1,494,915	1,496,570
5. Interest .....	8.55	8.44	11.94	7.74	5,301,194	4,707,245	6,577,629	4,266,568
6. Taxes .....	1.00	.97	2.17	2.24	619,620	543,720	1,195,931	1,237,705
7. Total Overheads .....	17.28	17.06	25.37	16.08	\$10,714,067	\$9,523,799	\$13,976,914	\$9,469,980
8. Total Tangible Property...	117.28	117.06	125.37	116.08	\$72,701,464	\$85,322,557	\$69,063,102	\$64,558,174
9. Preconstruction Costs .....	2.84	2.84	.....	.....	2,066,023	1,850,952	.....	.....
10. Organization and Develop- ment and .....	.....	.....	2.50	2.32	.....	.....	1,723,626	1,496,570
11. Promoters' Profits .....	.....	.....	4.50	0	.....	.....	3,453,253	Note (3)
12. Financing .....	5.14	5.14	.....	.....	3,738,400	3,359,125	3,453,254	" "
13. Going Value .....	6.48	6.47	.....	.....	4,710,000	4,232,438	.....	" "
14. Consolidated Value .....	7.70	7.70	.....	.....	5,600,000	5,040,000	.....	" "
15. Development .....	.....	.....	33.75	.....	.....	.....	23,308,570	.....
16. Total Intangibles (1) ...	22.16	22.15	45.74	.....	\$16,114,423	\$14,401,575	\$31,938,703	Note (3)
17. Per Cent. of Intangibles on Basis of L.&M.(2), Grand Total .....	26.00	25.90	57.98	.....	.....	.....	.....	.....
	143.28	142.96	183.35	.....	\$88,815,887	\$79,814,132	\$101,003,805	Note (3)

Note (1)—Intangibles are computed on the basis of line 8 as 100%.

Note (2)—The figures in this line are computed on the basis of line 1 as 100%.

Note (3)—Feustel made no specific estimate for intangibles, but stated that he would add back accrued depreciation, if deducted and not earned, as a development cost.

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

## APPENDIX V.

## SUMMARY OF WORK DONE FOR EMERGENCY FLEET CORPORATION.

Authori- zation Number	Project	P. S. Ry. Book Costs			Est. Price at Which P. S. Ry. Could Purchase These Extensions, 1-1-21	
		Labor and Material	Over- head	Total		
Essex Division:						
2129	Track on Lincoln High- way .....	\$10,298	\$161	\$10,459	¾ (total dep.)	\$7,198
2082	Exten. to Port Newark..	656,185	9,232	665,397 <sup>a</sup>	½ (net dep.)	301,836
2128	Feeder, Lincoln Highway.	15,597	.....	15,597	¾ (total dep.)	10,762
Totals .....		\$682,060	\$9,393	\$691,453	.....	\$319,796
Southern Division:						
2091	Track for N. Y. Shipbldg. and Pa. & N. J. ....	577,881	4,622	582,503 <sup>b</sup>	¾ (total dep.)	401,927
2127	Track for Yorkship Vil- lage .....	226,304	8,560	234,864	¾ (net, \$44,711; plus, \$17,494)	153,689
Totals .....		\$804,185	\$13,182	\$817,367	.....	\$555,616
Grand Totals .....		1,486,235	22,575	1,508,820	.....	875,412
				875,412		
Excess of Book Costs over probable purchase price .....				\$633,408		

<sup>a</sup>—Includes Substation Equipment, \$7,211.<sup>b</sup>—Excludes Transmission System, Power Plant and Substation Equipment, \$378,656. Annual depreciation taken at 4% on the assumption that during the past two years elapsed life no credit has been made to amortization reserve for maintenance and repairs.

## ORDER.

This matter having been duly heard and the Board, on the date hereof, having made and filed a report stating its findings of fact and conclusions thereon, which report by reference thereto herein is hereby made part hereof, the Board finds and determines that the existing rate charged by the Public Service Railway Company applying to transfers issued by the said company is insufficient, and the Board ORDERS fixed as just and reasonable rates for the said Public Service Railway Company to charge a fare of seven cents where seven cents is now charged and a charge of two cents for a transfer where a charge of one cent is made therefor; other portions of the existing schedule to remain in effect.

The said company is to continue filing monthly reports showing the results of operation and also wages paid and other statistics as heretofore furnished.

This order shall become effective August 4th, 1921.

Dated July 14th, 1921.

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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Application was made by the Public Service Railway Company to the District Court of the United States for an injunction restraining the enforcement of the action of the Board in the above-reported case. An appeal has been taken to the Supreme Court of the United States from the decision of the Federal Court.

The majority and minority opinions of the Federal Court follow.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT  
OF NEW JERSEY.

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PUBLIC SERVICE RAILWAY COMPANY, *Plaintiff,*

VS.

BOARD OF PUBLIC UTILITY COMMISSIONERS, *Defendant.*

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BILL FOR INJUNCTION.

Before *Woolley* and *Davis*, Circuit Judges, and *Relstab*, District Judge.

*WOOLLEY, Circuit Judge.* This action concerns the lawfulness of a rate fixed for a public utility under authority of a state statute.

The plaintiff is the Public Service Railway Company, a corporation organized under agreements of consolidation between many street railway companies, entered into by virtue of an act of the legislature of the State of New Jersey providing for the formation of traction companies and their regulation, approved March 14th, 1893.

The defendant is the Board of Public Utility Commissioners, created by an act of the legislature of the State of New Jersey, establishing such a board and conferring upon it power fully to regulate and control public utilities, approved April 21st, 1911. *O'Brien v. Board of Public Utility Commissioners*, 92 N. J. L. 44; *Ib.* 587.

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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The intervening defendants are the cities of Jersey City, Newark, Passaic, Paterson, Elizabeth and Camden, municipalities through whose streets the plaintiff railway company operates certain lines and between whom and the company there exists, it is alleged, rights and duties arising from ordinances, franchises and contracts, which, in their relation to the subject matter of this litigation, are separate and apart from any interests represented by the Board of Public Utility Commissioners and the Attorney General.

Given in bare outline, the events which lead up to this controversy are the following:

Public Service Railway Company controls, through consolidations, stock ownership and leases, sundry street railway corporations, which in turn control other railway corporations, and they in turn still others, running back to the day of horse railways, through whose lines, on being connected and combined into an unitary system, it operates 2,649 passenger cars over 850 miles of track in 146 municipalities in the State of New Jersey, including inter-urban lines, in several counties, serving, without limitation by municipal boundaries, a population of more than two million.

Speaking always in round numbers, the capital stock of the company issued and outstanding is \$48,700,000, of which \$39,200,000 was issued in exchange and payment for stock of underlying railway corporations, and \$9,500,000 was issued and sold for cash at par.

Prior to the consolidations by which the company was created, the constituent or lessor companies had mortgaged their properties for the payment of bonds to the amount of \$80,600,000. By virtue of the consolidation agreements these bonds, as well as the rentals reserved by the several leases, became direct obligations of the company, requiring it to pay interest amounting to \$3,700,000 and rentals amounting to \$1,160,000 annually.

The company pays annually more than \$21,700,000 in maintenance and operating expenses, about \$5,000,000 in fixed charges for interest on its bonded obligations and rentals for leased properties, and more than \$2,000,000 for taxes. It now pays no dividend on its stock.

Prior to 1916, the company charged a 5-cent fare throughout its system, a rate commonly regarded as just and reasonable for the service rendered. For a year or two prior to 1917 there was, as everyone knows, a progressive increase in the cost of maintenance and

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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operation of street railways growing out of the greatly increased cost of materials and increased wages and taxes, due to war.

Under this increased cost of maintenance and operation a surplus of \$1,180,000 which the company had accumulated up to the year 1917 was in 1918 changed into a deficit of \$300,000. This deficit increased until in 1920 it amounted to \$743,000. The difference between income and outgo during these later years, the company says, was not sufficient for it to meet its operating expenses, pay its fixed charges, and maintain its property in a state of efficiency. It was therefore compelled, during the years from 1917 to 1920, to borrow more than \$2,348,000 for the purchase of new rolling stock.

Believing it impossible further to maintain and operate its property on a 5-cent fare, the company, in March, 1918, filed with the Board a rate of 7 cents and charges for transfer. In July, 1918, the Board refusing the increase, continued the base rate at 5 cents but allowed 1 cent for each initial transfer. Finding the income still inadequate, the Board, in September, 1918, fixed a rate of 7 cents and 1 cent for a transfer for a period limited to March, 1919. In May, 1919, the Board reinstated the rate of 7 cents plus 1 cent, where it remained until July 14th, 1921.

The validity of the increase of this rate was reviewed by the Supreme Court and the Court of Errors and Appeals of the State of New Jersey in an action brought by Charles F. X. O'Brien, a citizen and rider, with the result that the courts sustained the increase and held that the Board may raise the rate of a public utility without evidence of the value of the property of the utility when the justice and reasonableness of the rate can be determined without first ascertaining the value of the property. 92 N. J. L. 44; *Ib.* 587.

During the controversy between the Board and company with reference to the fixation of rates which would give a fair return on the property devoted to the public service, the legislature of the State of New Jersey passed an act entitled "An act providing for the valuation of street railway properties in this State." Laws of 1920, chapter 351. By this act the Governor, State Treasurer and State Comptroller were constituted a commission for the purpose of ascertaining and determining the value of all properties of street railway companies of New Jersey. The act required the commission to select a competent electrical or mechanical engineering concern, equipped and organized for

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and experienced in the work of valuing street railway properties. The act, as later amended by the act of 1921, also provided that the report of the engineering concern and "the value of the property as set forth in said report shall be accepted by the Board of Public Utility Commissioners of this State as *presumptive evidence* of the value of said property, as of the date specified in said report in any rate proceeding under any law of this state to the extent that the value of said property is a factor in fixing a rate."

Pursuant to the act of 1920 the Commission retained the engineering firm of Ford, Bacon & Davis of New York, who at once set about the valuation of the company's properties. By their report, in April, 1921, they placed the valuation at \$125,000,000, based, it is claimed, largely on pre-war prices.

Prior to the official valuation made by Ford, Bacon & Davis, the company, for its own information, employed Mortimer E. Cooley, Dean of the College of Engineering and Architecture of the University of Michigan, to inventory and appraise its properties. This expert, aided by Professor H. C. Anderson, with a force of one hundred and fifty assistants, arrived at a valuation as of May 31st, 1921, based on post-war prices, amounting so far as the property alone is concerned to \$149,900,000, to which was added 30 per cent. for going value or \$44,900,000, making a total of \$194,900,000.

Without reciting all the moves made by the company and the Board in this protracted controversy, the next important step was the company's act of filing with the Board a 10-cent rate. The Board declined to allow this rate. The matter went to the Supreme Court, which, on July 1st, 1921, set aside the action of the Board and remanded the proceeding in order that the Board might fix a just and reasonable rate on the evidence. The evidence then before the Board was the newly filed report and valuation of Ford, Bacon & Davis, as well as the valuation of Cooley. Thereupon the Board proceeded to make its own valuation of the company's properties as a basis on which to grant the company an increase of fare. It began by making an estimate of the cost of the physical property new. In doing this it excluded "intangibles and everything else except pure physical cost." Physical costs (with the same matters excluded) had been estimated by the experts as follows:

## Public Service Railway Co.—Investigation of Reasonableness of Rates.

Cooley, cost new, approximately .....	\$69,000,000
Ford, Bacon & Davis, cost new, approximately.....	70,000,000
Wolff (expert for municipalities)	
Cost new (historical) .....	72,700,000

The Board valued the property (on a cost new basis) at \$70,000,000 reckoned on pre-war prices. From this basic figure it made one deduction and to it three additions, as follows:

Physical Cost or Value .....	\$70,000,000
Less Depreciation .....	13,500,000
Sub-total .....	\$56,500,000
Add Appreciation .....	12,000,000
Add Working Capital .....	1,500,000
Add Going Value .....	12,000,000
Total .....	\$82,000,000

With \$82,000,000 as its estimate of the present-day value of the company's properties devoted to the public service the Board next determined the number of fares which will probably be paid during the year to be 361,130,000 first fares, 5,300,000 school fares, and 75,000,000 transfer fares.

In determining a just rate on the valuation of the company's properties, considered with reference to the probable number of fares for the on-coming year, the Board, with the evident purpose of being fair to all concerned, made these findings: That the value of the property of the company "used and useful in the public service" is \$82,000,000; that the operating expenses of the company, including taxes and depreciation (but taking no account of interest charges, rentals, or dividends on its stock), will not exceed \$21,708,000; that the estimated number of fares at the base and transfer rates of 7 cents plus 2 cents and at the school rates, will yield a gross revenue of \$27,550,641; that this sum will cover costs of operation, taxes and depreciation stated above and will give the company \$5,842,500, which, being slightly over 7 per cent. on the property value, the Board regarded as a fair return for its property in the public service. It then made its order of July 14th, 1921, fixing rates at these figures.

The company, asserting a valuation of its property about double that of the Board and claiming the need of a 10-cent fare to produce

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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a return on that valuation, seeks relief against this last order of the Board by this action. Raising federal questions, it challenges the constitutionality of the statute under which the Board was created (later abandoned) and the constitutionality of the action of the Board in fixing rates which, it charges, are not commensurate with the services rendered and are, therefore, confiscatory, illegal, and void and in contravention of Section 1 of the Fourteenth Amendment to the Constitution of the United States. The company prays that it be granted writs in injunction, both temporary and permanent, restraining the Board from interfering with the company putting into effect the 10-cent rate of fare previously filed and from enforcing against the company its order of July 14th, 1921, fixing a rate of 7 cents plus 2 cents for an initial transfer.

As to the law of the matter under immediate consideration there is no dispute. The highest courts of the State of New Jersey and the Supreme Court of the United States have repeatedly given expression to the same views. Briefly they are these:

The state has a right to control private corporations whose business, necessarily monopolistic in character, is affected with a public interest. In the exercise of that control, when, as in this instance, it extends to the fixation of rates, the State, acting through its governmental agency (in this instance the Board of Public Utility Commissioners), must consider both the rights of the public and the rights of the corporation. Out of this situation it must evolve what the law terms a just and reasonable rate, which when made by compulsion of public authority can never exceed the value of the service to the consumer and cannot be made so low as to confiscate the property devoted to that service. Or, as expressed by the Supreme Court of the United States in *Smyth v. Ames*, 169 U. S. 466, the reasonable worth of the service rendered is the maximum of the permissible rate and a fair return on the value of the property employed for the public convenience is the minimum. It must fall between these two extremes. In applying the test of a minimum, the courts have held that the rates should be sufficiently high to enable the corporation from its earnings to pay taxes, to meet operating expenses, keep its property unimpaired, induce the investment of money in the business, and make a fair return on the capital invested. Neither the public nor the corporation is entitled to anything more. Public Service Gas

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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Company *v.* Public Utility Board, 84 N. J. L. 463; O'Brien *v.* Public Utility Board, 92 N. J. L. 44; Public Service Railway Co. *v.* Board of Public Utility Commissioners, N. J. L., Philadelphia City Passenger Railway Co. *v.* Pennsylvania State Public Service Commission.

While this test, as defined by both state and federal courts, is directed to the value of the corporation's property devoted to public service, the courts of New Jersey have said in O'Brien *v.* Public Utility Board, *supra*, that in fixing a rate it is not necessary that there be evidence before the Board of the value of the property of the public utility where the justice and reasonableness of a rate can be determined without first ascertaining the value of the property. Whether it is the law of New Jersey that the Board may, in every instance, fix rates for a public utility without first valuing its property is a question not pertinent to the issue arising on this application for a preliminary injunction. We are concerned only with what the Board did under the law of the State of New Jersey and with the validity of its action considered with reference to guarantees of the Federal Constitution. Certain it is that the law of New Jersey (Act of 1920) provides for the valuation of the properties of public utilities; that pursuant to that law a valuation of the company's property was formally made, to that valuation as evidence the Board gave consideration and on it based a valuation of its own from which it evolved the rate in dispute.

In order to show what questions the court has to decide at this stage of the case, it seems necessary from the drift of the argument first to point out very definitely some of the matters with which the court, just now, has nothing to do.

By its bill of complaint the company charges, *inter alia*, that the action of the Board of July 14th, 1921, fixing the rates last named, was unlawful because in contravention of the Fourteenth Amendment to the constitution of the United States (which forbids a state to "deprive any person of life, liberty, or property, without due process of law"), and prays an injunction, temporary and permanent, restraining the enforcement of that action. When a question of this kind arises, it is the law of the United States (Section 266 of the Judicial Code) that no interlocutory injunction restraining the enforcement of an order made by an administrative board acting pursuant to a statute of a state shall be granted by a District Court of the United

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**Public Service Railway Co.—Investigation of Reasonableness of Rates.**

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States, unless the application for the same be heard and determined by three judges, at least one of whom shall be a justice of the Supreme Court or (as in this case) a circuit judge. Thus it is clear that the court as presently constituted has to do solely with a question of allowance or disallowance of a preliminary injunction, the final decision is postponed until after trial. In determining that question the court has no concern with and therefore will give no consideration to such questions as whether the capitalization of the plaintiff company is excessive; whether its bonded indebtedness is out of proportion to the value of its property; whether its rental obligations under its leases are greater than the worth of the properties leased; or whether the management of the company has been good or bad, honest or dishonest. Nor is the court presently called upon even to inquire whether the 10-cent rate filed by the company is just and reasonable. The court is concerned with only one question, which is—whether the rate of 7 cents plus 2 cents for a transfer, last fixed by the Board, is confiscatory of the company's property because based on a valuation of the property less than its worth at the present time. If it is confiscatory, then the Federal Constitution has been violated and this federal court will afford relief.

Before discussing the issue whether the rate in contest is invalid because confiscatory, we shall dispose of the contention of the intervening municipalities that the rate is invalid because higher than rates prescribed by ordinances of municipalities under which, in part, the company operates its lines. These ordinances contain provisions for 5-cent fares or fares not in excess of 5 cents. Whatever obligation an ordinance locating street railway tracks and prescribing rates of fare may create between a municipality and an utility company, it does not bind the state. Ordinances raising such obligations are enacted, and franchises thereunder are accepted, subject to the reserved power of the state to act on its own behalf in a manner which may, in effect, nullify them. This power the State of New Jersey exercised by the Act of 1911, and through the Board there created, it continues to exercise by regulating rates at will. Indeed, in the last of several cases in which this question was involved, the Court of Errors and Appeals of the State of New Jersey said that its previous decisions "foreclose any further discussion relating to the power of the legislature to fix reasonable rates to be charged by a public

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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utility company, notwithstanding the fixing of a maximum rate by a consenting ordinance." We regard the decisions by the courts of New Jersey as dispositive of the question of law raised by the intervening municipalities in this case. *Collingswood Sewerage Co. v. Collingswood*, 91 N. J. L. 20; affirmed, 92 *Ib.* 509; *Atlantic Coast Line Electric Ry. Co. v. Public Utility Board*, 92 N. J. L. 168; *Public Service Ry. Co. v. Board of Public Utility Commissioners*, 85 N. J. L. 123; affirmed, 86 N. J. L. 696; *Edison Storage Battery Co. v. Public Utility Board*, 93 N. J. L. 301; *O'Brien v. Utility Board*, 92 N. J. L. 587.

Turning to the issue of confiscation, this court understands that in appraising the value of the company's properties all parties agree that physical cost of the properties may be taken as the base figure. This cost the Board places at \$70,000,000. The intervening municipalities say that figure is too high. The plaintiff company says it is too low, yet (for the purpose of the present discussion) it admits it to be correct. After giving careful consideration to the contention of the municipalities, the court finds that they have not sustained the burden (which the law places upon them) of overcoming the presumption of correctness which the law gives to the Board's calculation. Therefore, this court, for present purposes, accepts the Board's cost figure of \$70,000,000.

From the physical cost of \$70,000,000 (at pre-war prices) the Board deduced the present value (at post-war prices) by making one deduction and three additions. The deduction was \$13,500,000 for depreciation.

As the property is no longer new, all agree, of course, that it has depreciated in value. *Knoxville v. Knoxville Water Co.*, 212 U. S. 1; *Des Moines Gas Co. v. Des Moines*, 238 U. S. 153. The municipalities contend that the deduction of \$13,500,000 is too small. The company maintains that it should not be charged with depreciation in this sum, or in any other sum, because the depreciation of its property was the fault of the Board in denying it rates sufficient to maintain its property in a state of efficiency.

The next item is \$12,000,000 added for appreciation. No one questions that appreciation to property of public utilities is a lawful factor in estimating its value when appreciation has actually occurred. *Wilcox v. Consolidated Gas Co.*, 212 U. S. 19; *Minnesota Rate Case*,

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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230 U. S. 458. But the municipalities say that no figure for appreciation should be added to the resultant of the physical cost less depreciation because none exists in the circumstances. The company urges that while its properties have manifestly depreciated by use since pre-war days, it is equally manifest that their value has appreciated in the great rise of commodity prices which all know took place during the war. The company maintains that there is a disproportion between the appreciation allowed (about 20 per cent.) and the increase in commodity prices (over 100 per cent.), and that, in consequence, the figure of \$12,000,000 allowed for appreciation is grossly unfair. In this connection the company maintains that the Board failed to give the Ford, Bacon & Davis report the presumptions to which, as evidence, it is entitled by force of the statute, and disregarded other evidence in the case.

Passing without contest the item of working capital, the company next charges error in the Board's figure of \$12,000,000 for going value.

All agree that, in the language of the Board's report, "it is settled law in this State and in the United States that the question of making an allowance for going value is no longer open to discussion. That a going concern has a value over and above the value of the physical property employed is self-evident." *Des Moines Gas Co. v. Des Moines*, 238 U. S. 153; *Denver v. Denver Water Co.*, 246 U. S. 158. But the municipalities say that no item of going value should be allowed because all items validly embraced within such a heading are already included in the base figure of physical cost. The company contends that the allowance for going value is grossly inadequate, representing that in making an estimate of such value consideration should be given to service and economies of an unitary system over the disadvantages and costs of independent systems individually operated in separate communities. While admitting that such value may include many things very much according to the judgment of the men who appraise them, it urges that it includes the cost of developing the business to its present state of efficiency not returned in earnings, which here is estimated at \$1,500,000; losses incident to running new and unprofitable lines; cost of consolidating many separate units and producing the advantages of one comprehensive system with a consequent reduction of fares, extension of transfer systems and increased

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Public Service Railway Co.—Investigation of Reasonableness of Rates.

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convenience to the traveling public, estimated by Ford, Bacon & Davis at \$5,000,000; obsolescent and superseded property, estimated by the same firm at \$4,700,000 and by Wolff, municipal expert, at \$9,464,000. In fixing going value the company asks that consideration be given to cost of obtaining money, testified here to have been between \$3,500,000 and \$6,000,000, and maintains finally that the Board in allowing a going value of \$12,000,000 gave a value for the system and wholly excluded many of the items specifically given in evidence as going value of the properties, or, if it did not, then it included portions of the specified items and wholly excluded any value for the property as a system.

Instead of an allowance of about 14 per cent. on the physical cost the company claims 30 per cent., the figure allowed for going value by the Board in *Public Service Company v. Board*, 84 N. J. L. 463, 467.

In addition to its attack upon the items named in the Board's table of calculations, the company charges that the Board wholly omitted the value of the company's contract with the Public Service Electric Company, the source of the railway company's electric energy, estimated by Ford, Bacon & Davis to be worth a figure between a minimum of \$11,194,000 based on pre-war prices, and a maximum of \$19,149,000, based on present-day prices.

The company also contends that the Board ignored the fact that the railway company, because of insufficient fares in the past, has been unable to pay the electric company for electricity in the sum of \$2,500,000; that the Board rejected as an element of value moneys expended in procuring capital for the work of construction; that the rate established does not make the procuring of new capital possible; that it does not provide for reimbursement for past deficiency in operation; that it does not permit recoupment of unearned profits during the past three years; that the increase of 1 cent per transfer has demonstrated the error of the Board's calculation that it would produce \$750,000 annually, in that the test from August 4th to September 6th shows that it produced an increase (over the corresponding period of last year) of \$1,227.64 per day, and that at that rate it will produce only \$448,088 per annum; that the amount allowed for accident liability is insufficient; and that the amount allowed for taxes is underestimated. For these many reasons the

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company charges confiscation of its properties. Some of these reasons we regard as sound, others merely persuasive, and still others without merit. The Board and the municipalities combat all of them.

On this showing the question is, shall a preliminary injunction issue? In reaching a decision on this question we have been guided by several principles. The first is, that except in very clear cases courts should not, and will not, interfere with rate regulation under state statutes. *Wilcox v. Consolidated Gas Co.*, 212 U. S. 19. The next is, that in a question of rate making there is a strong presumption in favor of the conclusions reached by an administrative body after a full hearing. *Darnell v. Edwards*, 244 U. S. 564. Indeed, one court has gone so far as to say that on an application for a temporary injunction against the enforcement of a rate made by a statutory body "every presumption is in favor of the validity of the rate." *King's County Lighting Co. v. Barrett* (P. U. Rep. N. Y. 1921, A 729).

Without stopping to discuss its precise weight, it is sufficient to say that we have recognized such a presumption and have applied to it the test given in *Wilcox v. Consolidated Gas Co.*, 212 U. S. 19, which is: That to overcome the presumption of the validity of the established rate, the plaintiff company, praying for a temporary injunction, must show "beyond any just or fair doubt" that the action of the Board was "in fact confiscatory." With this test constantly in mind, we have studied and weighed the evidence. Realizing very clearly that we are called upon to exercise a delicate and dangerous power, we have approached the consideration of every point with a keen sense of our responsibility. In our endeavor to administer exact justice we have laid aside all matters urged against the Board's valuation that are open to debate, however persuasive they may appear, and in arriving at our conclusion we have been influenced only by those matters which, as we view them, have been established by the company "beyond any just or fair doubt." In estimating these several items we have used the lowest figures in the circumstances. It is not necessary at this stage of the case to discuss the particular matters which have controlled our judgment. It is sufficient to say that we have been constrained to find, first, that the Board either underestimated or wholly excluded from its valuation certain of the company's properties;

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second, that the rates named by the Board provide no return for the service of the properties excluded; and third, that the rates fixed are to that extent confiscatory.

On this finding it follows that a temporary injunction must issue. The next question is, what shall be its character? The company asks that the injunction shall do two things: First, restrain the Board from interfering with it putting into effect the 10-cent rate previously filed; and second, from enforcing against it the Board's order fixing a rate of fare at 7 cents plus 2 cents for an initial transfer.

As the court is not presently concerned with the lawfulness of the 10-cent rate, no temporary injunction affecting that rate will be awarded. As the court has found against the lawfulness of the rate 7 cents plus 2 cents, it is clear that the injunction must restrain the enforcement of that rate. But if the court were to do nothing more, the effect of such an injunction would be to annul the rate of 7 cents plus 2 cents, thus re-establishing the previous rate of 7 cents plus 1 cent, or leaving established no rate at all. This would be doing injury rather than equity to the complaining party. Anticipating that the court might name a new rate as a condition of an injunction against the old one, counsel for the Board have quite pertinently called the court's attention to the fact that it is not a rate-making body and have made the point that if the court name a rate as a condition for granting an injunction, it would, in effect, fix a new rate and would thereby exceed its function. That it would exceed its function as a rate-making body is very true, because, not being such a body it has no such function. But that in so doing it would exceed its power as a court of equity is not true. Injunction is one of the equitable remedies over which the court has jurisdiction. The remedy of injunction may be granted in the terms of the prayer or it may be granted only upon condition that the party seeking equity shall do equity, as in this instance, that the company shall consent to charge a fare no greater than what the court deems necessary to avoid confiscation. If the naming of a condition is in effect the fixing of a rate, the sanction for the court's act is in the injunction and in the circumstances that make injunction imperative. This rule is ancient and of wide application. *Walden v. Bodley*, 14 Pet. 156, 164; *State R. R. Tax Cases*, 92 U. S. 575, 23 L. Ed. 663;

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*Winnings v. National Bank*, 101 U. S. 153, 25 L. Ed. 903; *People's National Bank v. Marye*, 191 U. S. 272, 282-288, 48 L. Ed. 180; *Arillo v. Southwestern T. & T. Co.*, 253 Fed. 638; *Toledo v. Toledo P. & L. Co.*, 259 Fed. 450, 458; *Consolidated Gas Co. v. Weston*, 267 Fed. 231, 273, 274.

To this end the court will award an injunction against the Board of Public Utility Commissioners restraining it temporarily from putting into effect its orders of July 14th, 1921, upon the condition, however, that until otherwise directed by the court the Public Service Railway Company shall charge and collect over its various routes a school fare not exceeding the prevailing rate, a base fare not exceeding 8 cents, shall issue and accept as base fares four tickets or tokens for not more than 30 cents, and shall charge not more than 1 cent for an initial transfer, and shall give to every rider paying a base fare of 8 cents a receipt for 1 cent, and to every rider purchasing four tickets or tokens for 30 cents a receipt for 2 cents, transferable by hand, and redeemable by the company on presentation if the rate named in this condition for injunction is not sustained by the court on final hearing.

Let a decree be prepared.

DAVIS, Circuit Judge (dissenting). This Court has found that:

1. The Board either underestimated or wholly excluded from its valuation certain of the company's properties;
2. The rates named by the Board provide no return for the service of the properties excluded;
3. The rates fixed are to that extent confiscatory.

The history of this case is well told and the questions involved admirably stated in the clear opinion of Judge Woolley. About these there is no contention. The company complains of the action of the Board in appraising the physical cost of the properties at \$70,000,000 (though for the purpose of this application it accepts this valuation); in deducting \$13,500,000 for depreciation; in adding only \$12,000,000 for appreciation; in allowing only \$12,000,000 for going value; in not giving specific instead of potential value to the power contract; in not allowing fares sufficient to enable the company to pay its debt of \$2,500,000 to the Electric Company; in rejecting as part of the cost of reproducing the properties the amount expended in

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procuring capital required for the work of construction; in not allowing a rate sufficient to enable the Company to procure new capital, to reimburse deficiencies for past operation, to recoup past unearned profits; in estimating the amount 1 cent per transfer would produce and in not allowing a larger amount of accident liability and taxes for the ensuing year. The court found that the Board underestimated or wholly rejected some of these properties for the reason that if all the properties which the company claims were not taken into account in making up the physical cost, be given the lowest value that the experts, Dean Cooley and Ford, Bacon & Davis, placed upon them they aggregate a larger amount than was allowed for appreciation and going value combined in which alone they could be included, if considered at all.

It would not be profitable to discuss every contention, either of the company or of the intervening municipalities, concerning the various properties alleged to have been underestimated or wholly excluded. The important contentions relating to appreciation and going value which materially affect the final valuation will illustrate the character of all contentions on both sides of this question and the treatment of them by the Board.

The Board found that the physical cost of the properties in 1915 was \$70,000,000, less depreciation of \$13,500,000, leaving the actual cost value at that time \$56,500,000. The company admits for the purpose of this application that \$70,000,000 is the value of its properties but strongly urges that no depreciation whatever should be deducted from that valuation. The intervening municipalities accept the valuation of \$70,000,000 as correct but contend that the depreciation was far greater than \$13,500,000.

During the war, prices advanced generally and the company strenuously contends that the value of its properties increased at least \$43,000,000. The intervening municipalities urge that while prices have advanced and properties appreciated, yet these prices are fluctuating and transitory and so cannot be made the basis of valuation for the purpose of fixing rates. In this contention they were supported by the affidavits of Milo R. Maltbie and Edward W. Bemis, experts of wide reputation and large experience in appraising public utility properties. The company is entitled to a fair return upon the reasonable value of its properties at the time they are being used for the

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public convenience. *Smyth v. Ames*, 169 U. S. 466; *San Diego Land and Town Co. v. National City*, 174 U. S. 736; *Stanislaus County and San Joaquin and Kings River, Canal and Irrigation Co.*, 192 U. S. 201; *Lincoln Gas Co. v. Lincoln*, 223 U. S. 349. But the Supreme Court recognized as an exception to this rule that it would be unfair to the public to base a return on enormously increased values. *Wilson v. Consolidated Gas Co.*, 212 U. S. 19, 52. That court has not yet been called upon to determine how great an increase must be before it would be unjust to the public to base a rate upon it, but this has been done by other courts and public utility commissions.

Hon. Charles E. Hughes, former justice of the Supreme Court of the United States and the present Secretary of State and the writer of the opinion in the Minnesota Rate Case, 230 U. S. 352, was Master in 1918 in the case of *Brooklyn Borough Gas Co. v. Public Service Commission of the State of New York*, 17 N. Y. Off. R. 81, 89, P. U. R. 1918F, 335, 347, 348, and in that case on an application to increase rates he said: "To base rates upon a plant valuation simply representing a hypothetical cost of reproduction at a time of abnormally high prices, due to exceptional conditions, would be manifestly unfair to the public \* \* \*. It would be difficult to find any basis more just than the appraisal carefully made by public authority and based upon reproduction cost before the outbreak of the European war, with proper consideration of the actual investments since that time." The Supreme Court of the District of Columbia in an opinion rendered on March 2d, 1920, when prices were advancing and six months before they reached their peak, quoted approvingly the opinion of Mr. Justice Hughes in the Brooklyn Borough Gas Company case, *supra*, and in speaking of valuation of the capital invested and used for public convenience as the basis of fair and just rates said: "It (valuation) would lose all value if made as of an abnormal period when prices were abnormally low or high. To be of any assistance or real use, it must be made as of a normal time and the unit cost as applied thereto should extend over a sufficient number of years to show a normal trend of prices \* \* \*. The large utilities whose service and rates are supervised by this commission have not considered it a wise policy to even suggest that considerable accretions be taken into account in arriving at proper rate schedules \* \* \*. It is quite possible that by the time the first case is presented which

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embodies in full the controverted question, the need for the decision will, in large part, at least, be gone." It is evident that the valuation of property used for public convenience must be valued when conditions are normal and prices permanent. This is the only course fair both to public utilities and to the public. In abnormal times when prices advance, public utilities suffer. In periods of depression when prices become abnormally low, utility companies have the advantage. In the present year the Public Utility Commission of Illinois, in the case of *In re Public Service Co. of Northern Illinois*, 1921 B. Pub. Ut. Rep. 439, said: "It would be equally as unfair to the consumer to fix the rate at a figure which would produce a reasonable income on a value determined by the cost of reproduction new at a time when the cost of construction was abnormally inflated, as it would be unfair to the public utility to compel it to serve the public for a rate that would produce a reasonable income on a value determined by the cost of reproduction new at a time when the cost of construction was abnormally low." Within a month, the Public Service Commission of the State of New York refused to allow the New York State Railways to increase its fare beyond six cents on the ground that "it would be grossly unfair to the public to use the extraordinary dislocation in prices due to a world war as the groundwork for the fixation of a proper rate base."

If Mr. Justice Hughes was right in 1918 when prices were increasing by leaps and bounds in saying: "It would be difficult to find any basis more just than the appraisal carefully made by public authority and based upon reproduction cost before the outbreak of the European war," *a fortiori*, at this time, when prices have been falling for more than a year it is unjust to use the appreciated value of the company's properties of a year, six months or even three months ago, as the basis upon which to fix a fair and just rate of return. The evidence shows, in my judgment, that prices are not yet permanent but transitory. Within a week the following quotations on common material appeared:

	Today	A Year Ago
Wheat .....	\$1.17	\$2.07½
Corn .....	.49	.90¾
Oats .....	.35¾	.56¾
Rye .....	.96	1.62¾
Steel, Billets, open hearth .....	29.00	55.00
Sugar .....	5.39	11.76

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It was alleged at the hearing and not denied that copper is even lower than it was before the war. Unskilled labor is gradually approaching pre-war prices. Skilled labor, however, is trying to maintain war prices and as a result building operations are comparatively at a standstill. While a general average reduction on all commodities may not be based on these prices yet it is common knowledge that they are approximately correct and indicate that prices generally are in a procession downward, and are not 119 per cent. above pre-war prices as they were alleged to be in September, 1920. It is unfair to base a return upon transitory prices either high or low, for the basis of the proposed rate may disappear before it is put into effect. Consequently the Board might have authoritatively said that it would be unfair to the public to base rates upon appreciated valuation due to abnormal war prices but it did not and in its effort to be fair, allowed \$12,000,000 appreciation to go into the final valuation for the purpose of fixing a rate of return.

The next large item over which there is a sharp contention between the company and the intervening municipalities is the amount allowed by the Board for "going value." The Board said "It is settled law in this state and in the United States that the question of making an allowance for going value is no longer open to discussion. That a going concern has a value over and above the value of the physical properties employed is self-evident." The company contends that going value included the cost of developing the business to its present efficiency, not returned in earnings; losses incident to running unprofitable lines in rural districts; cost of consolidating many separate lines into a unitary system under one management; the value of obsolescent or superseded properties. The company declares that "Here is a discrepancy evolved out of the minds of the members of the Board of \$31,000,000 on this item alone." The municipalities, on the other hand, contend that while \$70,000,000 represented the pure, physical cost of the properties new, this was a cost of the properties as a going concern as a unitary system and not as bare, disconnected junk value, and that all constituent elements which the company seeks to have embraced under going value and which can properly be so embraced, were included in the physical cost. They contend, therefore, that no allowance should have been made for going value and cite the case of *Des Moines Gas Co. v. Des Moines*, 238 U. S. 153, in

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which going value was disallowed by the Supreme Court as supporting their contention. There is confusion and uncertainty as to whether some of the elements properly embraced in going value were not included in the physical cost of the properties by the Board. The case is so involved in a mass of contradictory affidavits and evidence that it is impossible to determine, without serious doubts, in this preliminary application just what was included by the Board in physical cost and going concern value. Again the Board sailed between Scylla and Charybdis and allowed \$12,000,000 for going value. The Board did not give specific value to the power contract but did consider its potential value, counsel says, in fixing going value, just as it considered every property in fixing physical cost, appreciation or going value. In making these valuations the Board did not accept fully the opinions of opposing experts but doubtless considered what all said and used its own judgment.

If, however, some of the properties have been underestimated or even excluded, when the Board's action as a whole is considered, does its order at this time amount to confiscation within the meaning of the Fourteenth Amendment of the Federal Constitution? This court does not mean to increase the return of slightly over 7 per cent. on the properties valued. It does not declare that a return of 7 per cent. is confiscatory. It has sought to provide a return on the properties it has found to be used in serving the public and underestimated or wholly excluded by the Board in its valuation. The Court's order will permit the company to charge 8 cents for a single fare and 30 cents for 4 tickets or tokens and 1 cent for a transfer. This is an increase of 1 cent on a single fare and  $\frac{1}{2}$  cent on a transfer. Assuming that riders will generally buy tickets,  $\frac{1}{2}$  cent on each of 361,130,000 estimated fares for the ensuing year, exclusive of school fares which are to remain the same as before, amounts to \$1,805,650. If this amount is reduced by \$715,000, the amount the Board estimated 1 cent on a transfer would return, the yearly increase in consequence of the Court's order will be \$1,090,650. The increase as a matter of fact would be greater because some persons riding only one time would pay a single, flat fare of 8 cents. If, to account for these single fare riders, enough is added to make the aggregate increase, \$1,400,000, this amount is 7 per cent. on \$20,000,000 which must represent the extent of the value of the underestimated or wholly excluded properties.

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This sum added to the valuation of \$82,000,000 makes a valuation of the properties, according to the court, as I gather the basis of its conclusion, of \$102,000,000. After paying all operating expenses and taxes, the rate allowed by the Board will give a return to the company of \$5,842,500, which is .05727 or nearly 5¾ per cent. on the increased valuation. After paying all operating expenses, not including taxes, the return would be nearly 7¾ per cent. on the new valuation, without increasing the rate of fare above that allowed by the Board. The Interstate Commerce Commission, composed of men of ability and experience, and having at their command an advisory board of noted experts, allows the railroads a return of only 5½ per cent. If the court in this case is right, the Interstate Commerce Commission has confiscated the property of every railroad in the country—a most unlikely assumption. Assuming that the Board did underestimate or wholly exclude the properties to the extent of \$20,000,000, in view of the rate of return that the Board's order permits, I should hesitate to say on a preliminary application, without the benefit of a full hearing, with many questions in doubt, that it was confiscatory.

It is apparent that the company has sought to magnify the valuation of the various constituent elements of its properties and the municipalities, on the other hand, have sought to minimize them. As I have studied this record and weighed the opposing arguments, I have been profoundly impressed with two facts: First, the difficulty of the task which the Board has performed under unusual conditions and trying circumstances; and, second, its earnest effort to make a valuation of the properties and promulgate a rate of return which would at the same time be fair and just to the company and to the public. The determination of this question has called for the exercise of the Board's best business judgment, and I am persuaded that with a strong desire to be fair it has conscientiously done its best. Its order is presumptively right and should not be disturbed unless it clearly appears to be wrong. *Knoxville v. Knoxville Water Co.*, 212 U. S. 1; *Phoenix Railway Co. v. Geary et al.*, 239 U. S. 277; *Darnell v. Edwards*, 244 U. S. 564. As was said in the case of *Des Moines Gas Co. v. Des Moines*, *supra*: "While this case is close to the border line, I cannot say on the whole case that the evidence, beyond any just and fair doubt, satisfied me that the rates (provided in the Board's order) will prove confiscatory," and I therefore, with regret, am constrained to dissent from the conclusion of my colleagues.

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Public Service Railway Co.—Increase in Rates.

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**No. 910.****IN THE MATTER OF THE APPLICATION OF THE PUBLIC SERVICE RAILWAY COMPANY FOR A FURTHER INCREASE IN RATES.**

1. An order denying an increase in rates was appealed to the Supreme Court which reversed the action of the Board, declaring that the evidence justified an increase in rates without regard to the pending valuation proceeding, which under the instructions of the Legislature was required to be determined within a limited time.

2. The Board finds and determines upon the evidence that the allowance of two cents for a transfer instead of one cent as now charged will be, in connection with the company's existing charges, a just and reasonable rate and a compliance with the order of the Supreme Court.

On March 5th, 1918, the Public Service Railway Company filed a petition with this Board proposing to increase rates. Subsequent thereto the Board filed numerous orders relating to various aspects of the matter then under consideration but retaining jurisdiction under and by virtue of the original proceedings.

Upon the passage of the so-called Allen Act (approved May 5th, 1920) the Board suspended the proceedings pending the coming in of the valuation provided for in that Act. Since the filing of the valuation the Board has been engaged in hearing evidence in that case.

On December 7th, 1920, the Public Service Railway Company filed a schedule of rates providing for a ten-cent fare where seven cents was then charged. This proceeding was based upon the seventeenth section of the Public Utility Act as interpreted by the Court in the case of *O'Brien v. Board of Public Utility Commissioners*.

The Board began the taking of testimony in this so-called ten-cent or emergency case on April 6th, 1921, within two weeks of the appointment of the present Board. The company concluded its *prima facie* case without the introduction of evidence of a valuation, flatly stating that it rested upon the determination in the *O'Brien* case.

Coincident with the conclusion of the introduction of testimony by the company in the ten-cent rate case the valuation authorized to be made by the firm of Ford, Bacon & Davis by the Allen Act was filed with the Appraisal Commission created by the Allen Act and by

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that commission filed with this Board and it thereupon became, by operation of law, evidential in any rate proceeding then pending before this Board to the extent that the value of the utilities' property was a factor in the fixing of a rate.

The Board was therefore confronted with two pending proceedings.

The company was within its legal rights in resting the ten-cent rate case without a valuation and if an emergency existed which justified it, the Board would have been warranted in reaching a conclusion in that case without a valuation, provided it determined that a valuation was not a factor in that proceeding.

The Board did not feel that any such emergency existed in view of all the evidence and therefore dismissed the petition.

The order denying the petitioner's application under the O'Brien case for an increase in rates was appealed to the Supreme Court which reversed the action of this Board on July 1st, 1921, declaring that the evidence justified an increase in rates without regard to the pending valuation proceeding, which, under the instructions of the Legislature as expressed in the Allen Act, was required to be determined within a limited time.

While the Board has appealed from the decision of the Supreme Court, no stay of its order directing an increase could be obtained because of the impossibility of convening the Court of Errors and Appeals to act thereon.

The order of the Supreme Court is therefore in effect and must be obeyed. All of the testimony in this case was also considered in the valuation case decided contemporaneously herewith.

We therefore find and determine upon the evidence that the allowance of two cents for a transfer instead of one cent now charged will be, in connection with the company's existing charges, a just and reasonable rate and a compliance with the order of the Supreme Court.

We have borne in mind this order of the Supreme Court in endeavoring to arrive at a just and reasonable rate in deciding the valuation case decided simultaneously herewith and have also considered in that case all the evidence adduced in this case.

Dated July 14th, 1921.

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ORDER.

In accordance with the ruling of the Supreme Court, the Board ORDERS fixed as just and reasonable rates for the Public Service Railway Company to charge, a fare of seven cents where seven cents is now charged and a charge of two cents for a transfer where a charge of one cent is made therefor; other portions of the existing schedule to remain in effect.

The said company is to continue filing monthly reports showing the results of operation and also the wages paid and other statistics as heretofore furnished.

This order shall become effective August 4th, 1921.

Dated July 14th, 1921.

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**No. 911.**

IN THE MATTER OF THE APPLICATION OF THE PLEASANTVILLE GAS  
COMPANY FOR FURTHER INCREASE IN RATES.

1. On petition of the predecessor to the existing company for approval of an increase in rates the value of its property was fixed at \$250,000 on the basis of reproduction cost new, less depreciation.

2. The property was sold to a committee representing the bondholders at public sale for \$60,000. The par value of the bonds was \$100,000. A claim is made of additional costs and loss of interest making the cost to the bondholders \$125,000. This sum, by stipulation, is taken as the basis for rates in this proceeding.

3. An allowance of three per cent. on \$125,000 is regarded as an adequate allowance for depreciation.

4. Making allowances for decreased costs of production, deducting amounts which appear to be excessive in the company's estimate of operating expenses and depreciation and for additional revenue from increased rates heretofore allowed the Board finds that the schedule of rates petitioned for is unjust and unreasonable.

*Lewis Starr*, for the Company.

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Pleasantville Gas Co.—Increase in Rates.

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*Enoch A. Higbee, Jr.*, for Somers Point.

*H. W. Gill*, for Northfield.

*Albert Abbott*, for Absecon.

*L. D. Champion*, for Pleasantville.

The petition alleges:

That the corporation is a reorganization for the benefit of the bondholders of the Atlantic City Suburban Gas and Fuel Company, the property having been purchased by a committee representing a large majority of the persons holding bonds against the property of said company;

That the rate now charged for gas is \$2 per thousand cubic feet, established by order and report of the Board dated August 4th, 1920, together with a service charge of 25 cents per meter per month;

That in order to produce sufficient revenue to pay operating expenses and provide adequate return upon the value of the property used and useful in the conduct of its business, an increase in the rates from \$2 to \$2.75 per thousand cubic feet is requisite and necessary; that the company proposes said schedule shall become effective May 15th, 1921;

That the reasons for asking such increase are that the taxes levied against petitioner's property are approximately \$5,000 per annum, which is a material increase over the assessments payable when the present rate was established; that there is an increase in the cost of bituminous and anthracite coal since the rate was fixed; that the property has been operated without expensive salaries and overhead; that since the month of November, 1919, during which period petitioner has operated the plant, there has been a net operating loss to December 31st, 1920, of \$13,533.31, without allowing any return upon capital invested.

The proposed effective date of the schedule of rates was suspended to the 15th day of August, 1921.

Due notice was given of the time and place of the hearing and the municipalities interested were duly represented by counsel.

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Pleasantville Gas Co.—Increase in Rates.

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## VALUE OF PROPERTY.

Upon petition of the Atlantic City Suburban Gas and Fuel Company, a predecessor of the present company, for increases in rates, the Board fixed a value of \$250,000 on the basis of reproduction cost new less depreciation accrued. The property of the company, however, was sold to a committee representing the bondholders at public sale for \$60,000 as shown by testimony. The par value of the bonds was \$100,000 and the additional costs were stated by the president of the company, in the testimony of July 6th, 1920, page 12, as follows:

“We lost the interest, the \$100,000 principal with interest up to the *present time* amounts to about \$110,000 and over and \$14,000 brings it up to \$125,000, that it stands us in at this time.” (That is, as of July 6th, 1920.)

During the course of the hearing in the instant case it was stipulated that \$125,000 should be taken as the basis for rates in this proceeding.

The representatives of the company and of the municipalities both used a return of eight per cent. in calculating the cost of service.

## OPERATING EXPENSES AND TAXES.

During the course of the hearing the company did not submit a detailed estimate of the operating expenses and taxes for the year beginning August 1st, 1921, but in its brief the company does append such a statement. The engineer representing the municipalities submitted a detailed estimate of the costs of rendering service on the basis of sales of 40,905,300 cubic feet of gas and on the basis of the manufacture of 55,958,000 cubic feet of gas. The amount manufactured is based on there being lost or unaccounted for 26.5 per cent. of the gas made. These same figures for sales and for unaccounted for gas were used in the table appended to the brief of the company. In view of the testimony in the case that the leakage has been brought down to 23 per cent. (which is still high), it would appear that the amount of gas to be manufactured should be corrected accordingly and the cost of fuel and oil in both estimates should be reduced to the extent of 4.55 per cent. to correspond with

## Pleasantville Gas Co.—Increase in Rates.

the present operating conditions of the plant. In the company's brief are included not only the current costs for operating the plant during the year beginning August 1st, 1921, but some \$27,500 of losses alleged to have been incurred in the operation of the plant from November 7th, 1919, to April 30th, 1921. These should be eliminated in the estimate for the year and will be taken up later. The estimate of the engineer of the municipalities and that contained in the company's brief are set up side by side in Table I following:

TABLE I.

ESTIMATE OF COST OF MANUFACTURING AND SELLING 40,905,300 CU. FT. WITH RETURN ON INVESTMENT TAKEN AT \$10,000 (FOR YEAR BEGINNING AUGUST 1ST, 1921.)

	Vosbury	Company's Brief
Production Labor .....	\$8,174	\$6,174
Boiler Fuel .....	8,740	8,953
Generator Fuel .....	15,298	16,172
Gas Oil .....	14,885	14,885
Other Production Expense.....	2,680	2,680
I. Total Production Expense .....	\$47,777	\$48,864
II. Transmission and Distribution .....	3,371	3,371
Commercial Administration .....	4,200	4,200
General and Miscellaneous .....	5,100	6,100
Amortization of Depreciation .....	3,750	7,500
Operating Expenses .....	\$64,198	\$70,035
Taxes .....	5,500	6,460
Uncollectible Bills .....	200	200
Revenue Deductions .....	\$69,898	\$76,695
Return on Capital .....	10,000	10,000
Total .....	\$79,898	\$86,735
Less Merchandise Sales .....	175	
Amount to be furnished by gas sales.....	\$79,723	\$86,735
Per M. cubic feet .....	\$1.940	\$2.12
Revenue from sales of 40,905,300 cu. ft. at average rate of \$2.15* .....	\$87,946	\$87,946
Gas to be made M. cu. ft. ....	55,958	55,958

On basis of 23% leakage fuel costs can be reduced 4.55%. This would reduce Vosbury's total of \$38,923 by \$1,751 and Reed's total of \$40,010 by \$1,800.

\* Including service charges.

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Pleasantville Gas Co.—Increase in Rates.

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With respect to the cost of bituminous coal, Mr. Vosbury used the figure of approximately \$8.22 for cost of coal delivered in the bin per net ton. The company figures the cost of coal in the bin at \$8.59. Information obtained by correspondence with the company's president, while not submitted in evidence, reveals the fact that the current price of coal now being delivered approximates \$7.10 per net ton. The cost of anthracite coal in both estimates appears to be somewhat higher than current costs, the company's estimate including state tax which is confessedly not yet effective. The price of oil is taken at 8.32 cents in both estimates. The present price of gas oil approximates 5.75 cents instead of 8.32 cents. This very materially decreases the cost of gas oil from that calculated in both estimates.

General and Miscellaneous Expense. Mr. Vosbury adopts the figure of \$5,100 that being substantially the amount for general and miscellaneous expenses exclusive of amortization in 1920. The company adds \$1,000 to this amount, making \$6,100. The president of the company testified on June 6th, pages 4 and 5, as follows:

"This plant is conducted without any general office expenses and general salaries of any consequence or without any legal expense."

The Board is not satisfied that this is an accurate statement of fact and to test same has made a comparison of the amounts of general and miscellaneous expense excluding and including amortization as reported by three companies in the general vicinity of the petitioner's plant and the result of this both with respect to such general expenses and with respect to amortization will be shown in Table II following:

TABLE II.

COMPARISON OF GENERAL AND MISCELLANEOUS EXPENSES OF FOUR COMPANIES  
(FROM 1920 ANNUAL REPORTS TO THE BOARD).

	City Gas Light 1920	Wildwood Gas 1920	Cape May Cape May Illum'g 1920	Pleasantville Gas 1920 Actual	Pleasantville Gas 1921-2 Est'd
General and Miscellaneous					
Expense excluding gen- eral amortization .....	\$3,497	\$3,336	\$3,440	\$5,049	\$6,100
Amortization .....	3,745	4,364	2,404	7,500	7,500
Total .....	\$7,242	\$7,700	\$5,853	\$12,549	\$13,600
Valued by Board at date..	\$332,979	\$336,534	\$162,258	\$250,000	
	July '19	June '17	Aug. '18	June '18	

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Pleasantville Gas Co.—Increase in Rates.

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The other companies with which comparison is made do not operate under as favorable conditions for efficient operation as does the petitioner for the reason that the ratio of the maximum month's output to the minimum month's output for the City Gas Light Company is 9.2; that of the Wildwood Gas Company is 7; and that of the Cape May Illuminating Company is 2.9; where as the ratio of the petitioner is 1.54. The plant of the latter company, then, can be continuously operated at much nearer the annual average throughout the year than any of the other companies. None of the three companies has general and miscellaneous expense exceeding \$3,500, whereas the estimate of the petitioner indicates a charge of \$6,100 which in comparison with that of the others is excessive to the extent of about 75 per cent. The Board is of the opinion that this should be restricted at least to the amount actually charged in 1920 which is practically 50 per cent. higher than the average of the three other companies cited. With respect to the charge for amortization of depreciation, this charge is intended to recoup to the owner the actual cost of the property during its actual life in service. As the testimony of the president of the company is that the cost of this property, including all expenses and losses up to July 6th, 1920, did not exceed \$125,000, the Board considers that 3 per cent. of this is an adequate allowance. This, furthermore, is apparent from the context of the brief itself in which a life of substantially thirty-three years is assigned to the plant and property indicating an annual charge of three per cent. or \$3,750 a year. This amount was used in the Board's report of August 4th, 1920, though not separately so stated. The Board considers that \$3,750 per annum will serve fully to write off the cost of the property of the petitioner during the thirty-three years indicated in the brief.

On the petitioner's own showing the total cost of service for the year beginning August 1st will be \$86,735, changing none of its figures. The revenue from 40,905.3 M. cubic feet at an average of \$2.15 per thousand will approximate \$88,000; this shows an excess of from \$1,200 to \$1,300 over the amount of \$86,735 expenses estimated by the company. The company's estimate, however, should be modified as follows: There should be deducted the excess charge for depreciation, \$3,750; 4.55 per cent. of fuel and oil cost due to assuming 26.9 per cent. of gas lost or unaccounted for, or \$1,800; excess

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Pleasantville Gas Co.—Increase in Rates.

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revenue approximating \$1,211; general and miscellaneous expense overcharge \$1,000; a total excess of \$7,761. This is without considering other reductions which would result if the unit costs of coal and oil now being paid by the company were applied to the quantities used in the company's estimate. The latter would effect a very considerable saving in excess of the \$7,761.

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LOSSES SUSTAINED IN OPERATION SINCE NOVEMBER 7TH, 1919.

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The company claims in its brief that these losses to April 30th, 1921, approximate \$27,500. The Board will modify this estimate of losses as follows:

In Exhibit P-18 of the 1920 case the net operating loss from November 7th, 1919, to May 31st, 1920, was stated to approximate.....	\$3,686
Loss for November and December, 1919, will be (by proportion)....	978
The company's annual report for 1920 shows an operating loss of .....	\$9,910
From this should be deducted excess charge of depreciation .....	3,750
Leaving the adjusted operating loss for 1920.....	6,160
To this should be added the adjustments in inventory of.....	2,276
For the year 1921, the first quarter is indicated to have entailed a loss of approximating.....	\$2,579
And for April a further loss of.....	111
A total for the four months of.....	\$2,690
Deducting depreciation of .....	1,250
Leaves loss of .....	1,440
This makes a total net operating loss from November 7th, 1919, to April 30th, 1921, aggregating .....	\$10,854

As the \$125,000 base includes all losses and interest up to July 6th, 1920 (see testimony of July 6th, 1920), this leaves the loss of return on \$125,000 from July, 1920, to July, 1921, at 8 per cent. in the amount of \$10,000, less such operating income as May and June may produce under a revision of the allowance for depreciation. The aggregate of these items subject to such revision for May and June operating income is \$20,854. The \$7,761 indicated excess on the company's

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Pleasantville Gas Co.—Increase in Rates.

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modified estimate would recoup this loss within a period of less than three years. If the current prices for coal and oil continue, the annual operating income applicable to recoup the losses would be very largely increased. This indicates, in the opinion of the Board, that the present rate is fully adequate not only to provide for current costs but to amortize the past losses of the company.

The company in calculating that the rate allowed by the Board is insufficient uses the deficit which occurred in 1920 as an argument but does not take into account the fact that the rate allowed by the Board was not effective until after July, 1920. Had the schedule of rates been effective throughout 1920 the amount of 39,343,500 cubic feet of gas sold at \$2.00 would have produced a revenue of \$78,687. Exhibit P-17 of the present case indicates that the service charges would have aggregated \$5,152, a total of gas revenue of \$83,839. Merchandise revenue amounted to \$180. This indicates that the total revenue for the year had the rate been effective during that year would have been \$84,019. Deducting \$3,750 for the excess amortization charged would leave \$76,280 for adjusted expenses. This would leave \$7,739 for the use of capital. Deducting inventory adjustments of \$2,276 would leave \$4,463 for the use of capital. During 1920, however, a 600 B.t.u. gas was effective during the first seven months of the year and 3.57 gallons of oil per thousand cubic feet was used. During the last five months of the year 3.13 gallons per thousand cubic feet of gas made was used. Had the standard been effective throughout the whole year the saving would have been 0.44 gallons or substantially one-eighth; one-eighth of the \$23,800 cost of oil would indicate a further addition to revenue of approximately \$3,000, which, added to the \$4,463 above calculated, would have approximated a return of six per cent. on \$125,000. If present day prices had been reflected during 1920 a further very large saving would be effected. In these expenses for 1920, however, the average cost of gas oil was 12.35 cents a gallon against 8.32 cents as used in the computations by the engineer of the municipalities and in the brief submitted by the company as compared with a current cost of oil of less than six cents a gallon. The use of oil throughout 1920 was as stated above 3.57 gallons per thousand cubic feet of gas made, including 26.5 per cent. of gas unaccounted for. If all these changes be given due weight the cost of oil will be

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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less than half of the \$23,800 paid for gas oil in 1920, effecting a saving on that single item of upwards of \$11,000.

The Board finds and determines that the schedule of rates petitioned for is unjust and unreasonable and the petition should be and is hereby dismissed.

Dated August 12th, 1921.

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**No. 912.**

IN THE MATTER OF THE PROPOSED INCREASE IN RATES BY THE NEW  
JERSEY AND PENNSYLVANIA TRACTION COMPANY.

1. The petitioner, an electric railway operating between Trenton and Princeton, proposes to charge ten cents in each of four fare zones with commutation tickets good for single cash fare at the rate of \$1.00 per strip of 11 tickets and commutation school tickets sold at the rate of \$2.00 per strip of 40 tickets, the result being an increase of three cents per zone subject to the commutation rates.

2. The objectors claim the fare proposed would exceed that of the Pennsylvania Railroad and the Trenton and Mercer Traction Corporation.

3. If both the foregoing gave the same service to the public the Board would be unwilling to increase the rate of 28 cents which the petitioner now charges for the Trenton-Princeton ride.

4. It appears that the service rendered by the petitioner is somewhat better as to schedules maintained and the character of equipment and roadbed.

5. However, the Board does not believe that the value of the service to the passenger, in view of the competitive conditions, is worth more than 8 cents cash fare per zone, or 30 cents for the entire trip.

6. While this return is not as high as the valuation of the property might justify under present day conditions if it were operating in a non-competitive field, it is sufficiently high to enable the company to pay its operating expenses and yield what, in the Board's judgment, is a fair return upon valuation, particularly in view of the fact that the company entered into a field already for the greater part covered by a traction company.

7. It would be unreasonable to compel the public to pay a rate of return at present day rates upon unlimited duplication of facilities.

*Edgar Hunt, of Katzenbach & Hunt, for the Petitioner.*

*Henry M. Hartman, for City of Trenton.*

## New Jersey and Pennsylvania Traction Co.—Increase in Rates.

*Harvey T. Satterthwaite*, for Township of Lawrence.

*Richard Stockton, 3d.* for Princeton Borough and Princeton Township.

The applicant filed the following passenger tariff with the Board:

NEW JERSEY & PENNSYLVANIA TRACTION CO.  
Passenger Tariff.

Issued, March 23d, 1921

Effective April 12th, 1921.

Notice is hereby given that on and after April 12th, 1921, the rate of fare will be TEN CENTS, in either direction, for each fare zone or fraction thereof, as follows:

Trenton to Sand Pit.....	2.97 miles—fare	10 cents
Sand Pit to Lawrenceville.....	3.10 " "	10 "
Lawrenceville to Provinceline Road..	3.10 " "	10 "
Provinceline Road to Princeton.....	3.10 " "	10 "

Commutation tickets good for single cash fare will be sold at the rate of \$1.00 per strip of 11 tickets.

Commutation tickets good for single cash fare for use of school pupils under the age of fifteen years and valid only on regular school days will be sold at the rate of \$2.00 per strip of 40 tickets, upon application at the office of the company at Trenton, N. J.

This schedule issued, posted and filed with the Board of Public Utility Commissioners of the State of New Jersey, March 23d, 1921.

All fares are increased three cents per zone, subject to commutation rates above stated.

Issued by  
GAYLORD THOMPSON,  
General Manager,  
Trenton, New Jersey.

At the same time it filed a statement in compliance with Conference Ruling Number Fifteen which, among other things, alleges the following:

"2. The present and proposed passenger rates are as follows, covering the four zones between Trenton and Princeton:

	Zone Distance	Existing Passenger Rate	Proposed Passenger Rate
Trenton to Sand Pit.....	2.97 mi.	Seven Cents	Ten Cents
Sand Pit to Lawrenceville.....	3.10 mi.	Seven Cents	Ten Cents
Lawrenceville to Provinceline Road....	3.10 mi.	Seven Cents	Ten Cents
Provinceline Road to Princeton.....	3.10 mi.	Seven Cents	Ten Cents

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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Subject to commutation rates as follows:

Commutation tickets good for single cash fare, \$1.00 per strip of 11 tickets.

Commutation tickets good for single cash fare for use of school pupils under the age of fifteen years and valid only on regular school days, \$2.00 per strip of 40 tickets."

"The appraised value of the property of the company at pre-war standards is upwards of \$575,000.00, as was found and determined by the Board of Public Utility Commissioners in its Report of October 10th, 1916 (N. J. P. U. C. R., Vol. IV., page 532), and re-stated in its Report of May 15th, 1918."

"The new rates set forth in this application are intended to create equal charges for like services on the lines of the said Pennsylvania-New Jersey Railway Company and of the New Jersey and Pennsylvania Traction Company." (Owned by substantially the same interests.)

"Its ordinary and normal expenses for paving amount to an average of \$1,000 per year and upwards, and that the City of Trenton has recently instituted before your honorable Board a proceeding to compel petitioner to undertake overhead construction work and re-paving in connection with its tracks on West Hanover Street, the cost of which is estimated to amount to \$75,000, which work the petitioner has been completely unable to perform because of lack of funds and lack of credit, and petitioner avers that these paving obligations should be taken into consideration in fixing the rate of fare to be charged on this line."

That the reason for making this application is the further increase in the cost of labor and materials necessary for the operation of the road.

On March 29th, 1921, the proposed schedule of rates was suspended by the Board until the 12th day of July, 1921.

Due notice of the place and date of the hearing was given to the official representatives of the communities served by the applicant.

In presenting affirmative proofs in support of its application, the company through witnesses and in counsel's brief set up substantially the following claims:

1. That for the purposes of this application the value of the property should be taken at \$578,000 as shown in Exhibit P-4.

The Board in its report in re rates of the applicant dated October 10th, 1916 (Reports of P. U. C., Vol. IV, p. 532), stated that the "properties of the company at the beginning of the year 1914 were worth about \$575,000." As no capital additions have been made to the property since that date, there is no material difference between the value set up by the applicant and as shown in the report before cited.

2. The company's estimate of the revenue to be produced by the proposed schedule for the year 1921 is \$147,474.62 (Ex. P-16, brief,

## New Jersey and Pennsylvania Traction Co.—Increase in Rates.

p. 6). Its operating expenses, based on the first and last quarter of 1920, multiplied by two, are estimated to aggregate \$105,888.88; taxes \$11,875, a total of revenue deductions of \$117,763, which deducted from the estimated revenue of \$147,474 would leave, for return on property, \$29,710.74 estimated to be produced by the tariff filed if effective for the entire year. The operating expenses as estimated by the company appear to be those which the company has incurred under conditions existing during the last *twelve normal* months (omitting the four strike months of April to July, inclusive, 1920). Nevertheless, they are the highest that the company has been called upon to expend in any one year during its history even after eliminating "strike" losses. The trend of prices for wholesale commodities and for labor is distinctly downward. For the purposes of this report this estimate of operating expenses and taxes will be taken.

With respect to the estimated revenue, the testimony, annual and monthly reports on file with the Board, when analyzed, indicate that the company has under-estimated its passenger revenue under the proposed schedule of fares. In Exhibit P-16 its estimate for passenger revenue is set forth as follows:

## ESTIMATED REVENUES AND EXPENSES YEAR 1921 ON BASIS OF 10C. FARE IN EFFECT FOR 12 MONTHS.

## Operating Revenues:

Passenger—Number of passengers carried year 1919, viz.:

7c. cash fare and commutation .....	1,501,961
City of Trenton 3c. fares.....	45,136
School tickets—4c. ....	22,524

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1,569,621

Estimated Passenger Revenue—1921:

Number of cash fares year 1919.....	1,501,961
Less 5% for increase in travel.....	75,098

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1,426,863

Number of Cash (10c.) fare passengers—say 25%...	356,716=	\$35,671.60
Number of Ticket (9½c.) passengers—say 75%....	1,070,147=	97,286.09
Number of 3c. Fares—same as 1919.....	45,136=	1,354.08
Number of 5c. School Tickets—same as 1919.....	22,524=	1,126.20

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Total Passenger Revenue—Estimated..... \$135,437.97

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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The theory on which the company constructed its estimate is that it may expect to carry in 1921 substantially the same number of fares as for 1919, diminished by five per cent. by reason of the imposition of a higher fare. In assuming 1919 as the basis the applicant gives no consideration to the average annual increase in its business which has taken place during the last six or eight years.

In order to make a more accurate estimate the Board has made the following calculations:

The total passengers carried in 1913 were 1,166,417. In 1919 (which the applicant claims to be the last normal year in its experience by reason of the fact that in 1920 a strike was declared against the company effective during April, May, June and July of that year), the company carried 1,569,621 passengers; these figures indicate that the business of the company increased 34.67 per cent. in the six years intervening, an unweighted average of 5.8 per cent. per annum or a weighted average of slightly more than five per cent. Five per cent., compounded for two years on the basis of 1,569,621 passengers carried in 1919 indicates 1,730,500 to be carried in 1921, assuming the average of five per cent. per annum increase to continue. As a check against this the monthly reports of the company for the months of January to April, inclusive, for the years 1919, 1920 and 1921 have been examined. The passengers carried during the first four months of 1921 were 1.13673 times those carried in the same period of 1919. By proportion, then the passengers carried in 1921 would be 1.13673 times 1,569,621 (number of passengers carried in 1919) or a total of 1,776,300 passengers. The inclusion of May, 1921, would have given the same result. The Board will take the average of these two estimates, or 1,753,400, to be reasonable under the circumstances.

Following the theory of the applicant, five per cent. is deducted from this to give weight to the effect of the increases in fare. This will leave a total of 1,665,000 passengers, in round figures, to be carried by the applicant during the year following the imposition of the new tariff.

An analysis of the operating results of the applicant from January 1st, 1920, to April 30, 1921, omitting the four strike months above referred to, indicates that the company carried approximately 1,700,000 passengers, of which 70.147 paid a three-cent fare and possibly

## New Jersey and Pennsylvania Traction Co.—Increase in Rates.

28,000 school tickets were sold, the record not disclosing by months the number of school tickets sold, except that Exhibit P-6 indicates that 22,524 school tickets were used in 1919 and that 26,062 were used in the full twelve months of 1920, including the strike months. Of the total of 1,665,000 passengers estimated to be carried, the Board will assume 75,000 to travel at a three-cent fare within the limits of Trenton, 28,000 will use school tickets and 1,562,000 will pay the full fare in each zone where seven cents is now paid. Examination shows that a fare schedule of eight cents per zone, four cents per school ticket per zone, and three cents for travel within the limits of the City of Trenton, would provide a revenue during one year's operations under the conditions assumed of \$128,330. A complete operating statement for the ensuing year as estimated under this modified schedule of fares will be shown in Table I following:

TABLE I.

ESTIMATED RESULTS OF ONE YEAR'S OPERATION UNDER A FARE SCHEDULE OF 8 CENTS PER ZONE WHERE 7 CENTS IS NOW CHARGED, 4 CENTS FOR SCHOOL TICKETS, AND 3 CENTS FOR TRAVEL WITHIN THE LIMITS OF CITY OF TRENTON.

	Passengers Carried.	Amounts.
1. Passenger Revenue:		
a. Princeton Division .....	1,562,000	\$124,960
b. School tickets .....	28,000	1,120
c. In City of Trenton .....	75,000	2,250
Total Passenger Revenue .....	1,665,000	\$128,330
2. Special Car Revenue .....		200
3. Express Revenue .....		825
4. Freight Revenue .....		13,615
5. Total Transportation Revenue .....		\$142,970
6. Non-transportation Revenue .....		2,167
7. Net Non-operating Revenue .....		1,710
8. Total estimated Receipts .....		\$146,847
9. Operating Expenses .....		105,880
10. Gross Income before Taxes .....		\$40,958
11. Taxes .....		11,875
12. Available for Interest and Dividends.....		\$29,083

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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The special car revenue is estimated at \$200 about the same as heretofore, express revenue is estimated on the figures shown in the company's brief, page 15, wherein package express revenue of 1919 is estimated to have increased 20 per cent. Freight revenue is similarly estimated by applying 40 per cent. increase to the freight revenue of 1919. The sum of these items makes a total estimated transportation revenue of \$142,970. Non-transportation revenue is taken to be the same as that during the last twelve months ending April 30th which were normal, eliminating, however, the four abnormal strike months. Net non-operating revenue is estimated in the same way as non-transportation revenue. This indicates a total revenue from the foregoing sources of \$146,847. Deducting operating expenses and taxes at the figure indicated by the applicant's brief, would leave the amount of \$29,083 available for return on capital, which would be about \$5,000 over and above bond interest to be paid by the applicant. As this revenue is within about \$600 or two per cent. of that estimated by the company to be produced by the proposed schedule, it would indicate that the schedule proposed by the company is, on facts in the record, too high and should not be approved by the Board. The testimony and argument on behalf of the applicant was to the effect that the decrease of five per cent. in passengers carried (due to increased rates) would be overcome within a few months. If this recovery is made the return will be increased from \$29,083 to about \$35,000. Furthermore, the trend of prices of labor and material is now decidedly downward. Both of these elements would tend to increase the gross income of the applicant.

The objectors claimed that the fare filed would exceed that on the Pennsylvania Railroad or on the competing trolley line. On the other hand, the service rendered is more frequent than on the Pennsylvania and more speedy than on the competing line.

The Board has taken into consideration the fact that the fare of the Trenton and Mercer County Traction Corporation, which is the competing line to that of the petitioner, for a ride from Trenton to Princeton, is 24 cents. If both these lines gave the same service to the public the Board would be unwilling to increase the rate of 28 cents which this company is now charging for the Trenton-Princeton ride.

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**New Jersey and Pennsylvania Traction Co.—Increase in Rates.**


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It appears, however, that the service rendered by the petitioner is somewhat better both in the matter of the schedule maintained and in the character of the equipment and roadbed. However, the Board does not believe that the value of the service to the passenger is, in view of the competitive conditions both of the competing traction company and the Pennsylvania Railroad, worth more to the passenger than 8-cent cash fare per zone or 30 cents for the entire Princeton-Trenton trip. The Board will, therefore, fix a cash fare per zone of 8 cents with the right to purchase four tickets for 30 cents to the passenger. While this return is not as high as the valuation of its property might justify under present day conditions if it were operating in a non-competitive field, it is sufficiently high to enable the company to pay its operating expenses and yield what, in the Board's judgment, is a fair return upon valuation, particularly in view of the fact that this company entered into a field already for the greater part covered by a traction company. It would be unreasonable to compel the public to pay a rate of return at present day rates of interest upon unlimited duplication of facilities.

The schedule as indicated conforms within reasonable limits to the cost of the service, as set forth by the record.

The customer can determine for himself the relative value of the service by choosing the particular line whose tariff and class of service best suits him.

#### CONCLUSIONS.

The Board therefore finds and determines:

1. That the schedule of rates filed is unjust and unreasonable and the Board disapproves the same.
2. That the applicant is, however, entitled to an increase in rates upon the state of facts set forth in the body of this report.
3. That it may file the following schedule of rates effective five days after such filing and posting copies of same in the cars of the applicant and after notice to the Board of such action, viz.:

Trenton to Sand Pit.....	Fare 8 cents, distance 2.97 mi.
Sand Pit to Lawrenceville .....	" 8 cents, " 3.10 mi.
Lawrenceville to Provinceline Road.....	" 8 cents, " 3.10 mi.
Provinceline Road to Princeton.....	" 8 cents, " 3.10 mi.

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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The company will sell four tickets for 30 cents, each ticket to be good where an eight cent cash fare is charged.

Rate of fare for a single ride wholly within the limits of the City of Trenton will be three (3) cents.

Commutation tickets good for single cash fare for use of properly accredited school pupils and valid only on regular school days will be sold at the rate of one dollar (\$1.00) per strip of twenty-five (25) tickets, upon application at the office of the company, at Trenton, N. J.

4. The filing by the company of the increase herein suggested will be taken as a stipulation that abrogation or modification of the increase in rates may be made as and if conditions as indicated by operating results both as to revenue and the character of service rendered warrant.

5. Beginning at the effective date of the rates herein indicated as just and reasonable, if filed, the company shall render to the Board monthly reports. These reports are to show the operating revenues, operating deductions, excluding amortization, non-operating income, income deductions and balance available for general amortization, dividends and surplus, and also the amount appropriated for general amortization, together with a comparison with the figures for the corresponding period of the preceding year, this statement may preferably follow the forms shown in the annual report for operating street railways, Revenue, p. 22, col. (c) and (d), Expenses, Recapitulation, p. 26 (with accounts 25a and 40 shown in foot-note); Income Statement, p. 20, and Statistics as shown on p. 35. And the Board will retain jurisdiction of the increase as herein approved for the purpose of modifying same as and if the conditions change.

Dated August 19th, 1921.

### ORDER.

The Board of Public Utility Commissioners having on the nineteenth day of August, 1921, made and filed a report, containing its findings of fact and conclusions thereon, which report by reference thereto herein is made part hereof, the Board after hearing HEREBY DETERMINES that the existing rates of the New Jersey and Pennsylvania Traction Company are insufficient and HEREBY ORDERS FIXED as just and reasonable rates for the said New Jersey and Pennsylvania Traction Company to charge the following, to wit:

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**New Jersey Power and Light Co.—Transfer of Property to.**

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Trenton to Sand Pit.....	Fare 8 cents, distance 2.07 mi.
Sand Pit to Lawrenceville.....	Fare 8 cents, distance 3.10 mi.
Lawrenceville to Provinceline Road.....	Fare 8 cents, distance 3.10 mi.
Provinceline Road to Princeton.....	Fare 8 cents, distance 3.10 mi.

The company will sell four tickets for 30 cents, each ticket to be good where an eight-cent cash fare is charged.

Rate of fare for a single ride wholly within the limits of the City of Trenton will be three (3) cents.

Commutation tickets good for single cash fare for use of properly accredited school pupils and valid only on regular school days will be sold at the rate of one dollar (\$1.00) per strip of twenty-five (25) tickets, upon application at the office of the company, at Trenton, N. J.

This Order shall become effective September 28th, 1921.

Dated September 8th, 1921.

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**No. 913.**

IN THE MATTER OF THE APPLICATION OF THE LAMBERTVILLE PUBLIC SERVICE COMPANY, FLEMINGTON ELECTRIC LIGHT, HEAT AND POWER COMPANY AND NEWTON ELECTRIC AND GAS COMPANY FOR LEAVE TO SELL TO THE NEW JERSEY POWER AND LIGHT COMPANY THEIR PROPERTY AND FRANCHISES.

IN THE MATTER OF THE APPLICATION OF THE NEW JERSEY POWER AND LIGHT COMPANY FOR THE APPROVAL OF THE ISSUANCE OF PREFERRED AND COMMON STOCK, AND ALSO ITS FIRST MORTGAGE BONDS.

IN THE MATTER OF THE APPLICATION OF THE NEWTON ELECTRIC AND GAS COMPANY FOR APPROVAL TO SELL STOCK, RETIREMENT OF ALL OF ITS OUTSTANDING PREFERRED STOCK AND OF THE ISSUANCE OF ADDITIONAL COMMON STOCK.

1. The Board does not usually regard with approval the practice of transferring the stock of a public utility of New Jersey, to a foreign corporation. In this case, however, it appears that the circumstances are such that consent may be properly given.

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New Jersey Power and Light Co.—Transfer of Property to.

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2. Approval is given upon condition that the Lambertville Public Service Company and the Flemington Electric Light, Heat and Power Company retire all their outstanding securities, debts, etc., and that the companies be completely dissolved, evidence of which shall be deposited with the Secretary of State in the manner prescribed by law.

*Arthur L. Marrin*, for New Jersey Power and Light Co.

*J. C. Martin*, for the Selling Companies.

The petition filed in this matter sets forth the history and capitalization of the respective companies. These companies are now serving certain municipalities in this state with electricity and gas for light, power and fuel purposes. They desire to transfer all of their electric light and power property to the New Jersey Power and Light Company, a New Jersey corporation which is also engaged in furnishing light and power to certain municipalities in this state.

Contemporaneously, the New Jersey Power and Light Company files a petition asking for leave to issue certain securities to be used in effecting the transfer.

The Newton Electric and Gas Company also files a petition asking for the approval of the sale of its stock to the General Finance Corporation, a Delaware corporation, and of the retirement of all of its outstanding preferred stock and of the issuance of additional common stock.

From the testimony taken and the report of the Board's inspector it appears that public interests will be better served through the acquisition of the electric property of the Lambertville Public Service Company, the Flemington Electric Light, Heat and Power Company and the Newton Electric and Gas Company by the New Jersey Power and Light Company than by their continuance as separate and individual companies.

The New Jersey Power and Light Company is at present supplying the Newton Electric and Gas Company with power from its Dover station. Transmission lines also extend a considerable part of the way to Flemington.

The engineers of the Board have checked the inventories and examined the buildings and plant equipment to be transferred. The

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**New Jersey Power and Light Co.—Transfer of Property to.**

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total value of all properties as agreed upon by the engineers of the respective companies and the Board's engineer is \$465,000.

The gas property of the Newton Electric and Gas Company is not to be included in this sale. It has been valued by the company and this valuation has been acquiesced in by the Board's engineer at \$78,000. Deducting this amount from the total valuation of \$465,000, above referred to, leaves \$387,000 as the basis upon which the New Jersey Power and Light Company will take over the physical property and franchises of the Lambertville, Flemington and Newton Companies.

The application of the New Jersey Light and Power Company asks for the approval of an issue of five per cent. first mortgage bonds to the amount of \$309,000 to be issued at 80 per cent., preferred stock to the amount of \$89,500 and common stock to the amount of \$50,300 at par. On this basis the stock and bonds proposed to be issued correspond to the aggregate value of the property to be taken over, to wit: \$387,000.

It is proposed to continue the existence of the Newton Electric and Gas Company and change its name to the Newton Gas Company and for it to continue to operate its gas property as heretofore. The stock at present outstanding of the Newton Electric and Gas Company, consisting partly of preferred stock and partly of common stock, is to be retired and in place thereof it is proposed to issue common stock of the par value of \$78,000, this being equivalent to the present or depreciated value of the gas property agreed upon as above indicated.

Upon the full consideration of the whole matter, the Board will approve:

1. The sale by the Lambertville Public Service Company, the Flemington Electric Light, Heat and Power Company and the Newton Electric and Gas Company of all the physical property and franchises used or useful in connection with the production, distribution and sale of electrical energy.

2. The issuance by the New Jersey Power and Light Company of the following securities to effect the sales referred to in paragraph (1): bonds in the amount of \$309,000, issued at eighty; preferred stock in the amount of \$89,500, issued at par; common stock in the amount of \$50,300, issued at par.

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**Benjamin Mackler--Auto Bus on the Haddon Heights Line, Camden.**

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3. The issuance by the Newton Gas Company of additional common stock at par, in the amount of \$53,000, making the total amount outstanding \$78,000 par value. All of the present outstanding preferred stock should be retired.

4. The transfer of the stock of the Newton Gas Company to the General Finance Corporation.

The Board does not usually regard with approval the practice of transferring the stock of a public utility of New Jersey to a foreign corporation. In this case, however, it appears that the circumstances are such that consent may be properly given.

Approval of the above will be given upon the condition that the Lambertville Public Service Company and the Flemington Electric Light, Heat and Power Company retire all their outstanding securities, debts, etc., and that the companies be completely dissolved, evidence of which shall be deposited with the Secretary of State in the manner provided by law.

Dated August 22d, 1921.

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**No. 914.**

**IN THE MATTER OF THE APPLICATION OF BENJAMIN MACKLER FOR  
PERMISSION TO OPERATE AN AUTO BUS ON THE HADDON HEIGHTS  
LINE, CAMDEN, NEW JERSEY.**

Application for approval of local permission to operate an auto bus is denied where the existing bus and trolley transportation facilities are sufficient to meet the normal demands of traffic.

*William B. Knight*, for the Petitioner.

*L. D. H. Gilmour* and *E. W. Wakelee*, for the Public Service Railway Company.

This is an application for the approval by the Board of the license granted by the City of Camden to the applicant to operate an auto

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**Benjamin Mackler—Auto Bus on the Haddon Heights Line, Camden.**

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bus, commonly known as jitney, over a route part or all of which is also the route of a street railway line. Hearing in this matter, with that of several other applications, was held in Camden, May 14th, and June 20th, 1921.

The permit for the operation of this bus was issued April 18th, 1921, since which date the bus has been operating.

The route extends from the Pennsylvania Railroad Ferry, out Federal Street to Haddon Avenue, thence out Haddon Avenue to the intersection of Haddon Avenue and White Horse Pike, thence out White Horse Pike to Station Avenue, in Haddon Heights. Returning, the route is the same to Broadway and Federal Street where it continues on Broadway to Market Street, thence on Market Street to the Ferry.

This route parallels on the same street the tracks of the Public Service Railway Company outbound from the Ferry to the intersection of White Horse Pike and Haddon Avenue. White Horse Pike, on which the bus route operates, parallels the Public Service Railway Company's tracks, which are for the most part constructed on private right-of-way, through the boroughs of Collingswood, Oaklyn, and Audubon, to Haddon Heights, for a distance of about two and one-fourth miles. The distance between White Horse Pike and the company's private right-of-way averages approximately one hundred yards. Inbound, the bus route also parallels the tracks of the Public Service Railway Company on the same street from the intersection of White Horse Pike and Haddon Avenue to the Ferry except that portion extending on Broadway from Federal Street to Market Street.

The testimony indicates that the bus is not operated on any regular schedule, and does not have any fixed running time. It appears, however, that it usually requires something over a half hour to make the trip in one direction; also that the applicant takes his turn with the other buses in laying over at the Haddon Heights terminal.

The total length of the route was testified to by the applicant as being six miles; and the distance on which he parallels the tracks of the Public Service Railway Company is about one-half and the balance of the route paralleled as above indicated on private right-of-way.

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**Benjamin Mackler—Auto Bus on the Haddon Heights Line, Camden.**

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The route of the Haddon Heights trolley line is somewhat different from that of the bus line in that the Haddon Heights cars diverge from Federal Street to Broadway, thence go out Broadway to Ferry Street to Mt. Ephriam Avenue to Richey Avenue to Newton Avenue, thence generally over private right-of-way to Haddon Heights. The route of the bus line on Haddon Avenue and Federal Street follows what is known as the Haddon Avenue Line of the Public Service Railway Company within the City of Camden.

Testimony was submitted indicating the number of buses and trolleys operated, and the number of passengers carried and the seats furnished by both, during a period of eighteen hours.

From the evidence it appears that ninety per cent. of the passengers on the Haddon Heights buses leave or board the buses along the White Horse Pike, that is, between the intersection of Mt. Ephriam Avenue and Ferry Street and Station Avenue, Haddon Heights. It appears also from the exhibits that during the total period of observation the trolley company furnished a large number of seats in excess of the total number of passengers carried on both cars and buses.

The testimony further indicates that the existing bus and trolley transportation facilities, exclusive of the applicant's bus, are sufficient to meet the normal demands of traffic on the Haddon Heights and Haddon Avenue Lines.

In view of all the testimony it does not appear that the public convenience and necessity require any additional transportation facilities on this route, and the application for the approval of the permit submitted is therefore denied.

Dated August 22d, 1921.

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**Butler-Newark Bus Line, Inc.—Motor Buses Between Butler and Newark.**

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**No. 915.**

IN THE MATTER OF THE APPLICATION OF BUTLER-NEWARK BUS LINE, INC., FOR PERMISSION TO OPERATE MOTOR BUSES BETWEEN BUTLER AND NEWARK, N. J.

*W. G. Brandley, Esq.*, for the Petitioner.

*F. W. Van Blarcom, Esq.*, for L. H. Guttermann. Objector.

*L. D. H. Gilmour, Esq.*, for the Public Service Railway Co.

This is an application for the approval by the Board for the applicant to operate three auto buses, commonly known as jitneys, over a route of which is also the route of a street railway line. Hearing in this matter was held in Newark, August 4th, 1921.

The route for which application was made is as follows:

From Butler via Pompton Turnpike to Verona, thence via Bloomfield Avenue to Newark, passing through Butler, Bloomingdale, Riverdale, Pompton Lakes, Pompton Plains, Pequannock, Wayne, Mountain View, Singac, Verona, Montclair, Glen Ridge, Bloomfield and Newark. Returning the route is the same. The route parallels on the same streets the tracks of the Public Service Railway Company, from the intersection of Pompton Turnpike and Bloomfield Avenue, in Verona, easterly into the City of Newark. On return trip the route parallels the tracks of the Public Service Railway Company as indicated above.

There is no other regular means of direct frequent transportation between Butler and the other localities through which they pass the routes north of Verona. It is apparent from the evidence, that the buses to be operated by the applicant will serve a number of people who now have no other regular public means of communication north of Verona; it appears that there is no public necessity for these buses conducting any local business between Verona and their Newark terminus.

Approval of these applications will therefore be granted upon the following conditions:

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**Martin Fries—Auto Bus Between Highland Park and Camden.**

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1. That no local business shall be conducted east of Verona.
2. That no local business shall be conducted within the City of Newark.
3. While passing through the restricted territory where the buses parallel on the same street the line of the Public Service Railway Company, the buses shall be equipped with and prominently display a suitable sign indicating that local passengers will not be carried.

Dated August 22d, 1921.

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**No. 916.**

**IN THE MATTER OF THE APPLICATION OF MARTIN FRIES FOR PERMISSION TO OPERATE AN AUTO BUS BETWEEN HIGHLAND PARK AND CAMDEN, N. J.**

1. A considerable and growing community is entitled to have reasonable transportation facilities and should not be deprived of such facilities merely because it is necessary to parallel existing trolley lines to furnish them.

2. Permission is given to operate an auto bus between the Pennsylvania Railroad ferry in Camden and Highland Park, subject to restrictions applying to the transportation of passengers between points already adequately served.

Petitioner appeared on his own behalf.

*L. D. H. Gilmour*, for the Public Service Railway Company.

This is an application for the approval by the Board of permission to operate an auto bus, commonly known as a jitney, over a route part of which is also the route of a street railway line. Hearing in this matter, with that of several other applications, was held in Camden, June 20th, 1921.

The route for which application is made is as follows:

From the Pennsylvania Railroad Ferry, in Camden, to Federal Street and Broadway, via Broadway through Gloucester to Hudson Street, to Highland Boulevard, to Highland Park. Returning, the

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Martin Fries—Auto Bus Between Highland Park and Camden.

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route is the same to Broadway and Federal Street, thence continuing on Broadway to Market Street to the Ferry.

The route parallels in the same street the tracks of the Public Service Railway Company between the Pennsylvania Railroad Ferry, Camden, and Broadway and Hudson Street, Gloucester, except on Broadway between Federal and Market Streets.

The applicant has not received permits from the municipalities through which he proposes to operate but these municipalities have signified their willingness, in writing, to issue such permits subject to the approval of the Board.

It developed from the testimony that the only auto bus service to Highland Park is furnished by the applicant who is now operating one bus over this route, permit for which was secured March 9th, 1921, giving hourly service; this application is for permission to operate an additional bus in order to furnish more frequent service. The application was accompanied by a number of petitions of endorsement containing many signatures; one was from Highland Park, another from East Gloucester, a community lying between Gloucester and Highland Park, and another from the vicinity of East Gloucester. Several letters from parties interested endorsing the application were submitted.

From the testimony it appears that Highland Park now has a population of from two hundred and fifty to three hundred people and is rapidly growing, while East Gloucester, through which the route also passes, has a population of one thousand five hundred, making a total population served by this line of approximately one thousand eight hundred. The present bus is furnishing an hourly service, leaving Highland Park on the hour and the Pennsylvania Railroad Ferry, in Camden, on the half hour. The Public Service Railway Company's tracks are located about one and one-quarter miles from Highland Park.

The applicant testified that the principal reason he desired to operate a second bus was because the people generally requested a half-hourly service instead of the hourly service which he is now furnishing.

It is impossible to get from Highland Park to Camden without paralleling existing trolley tracks for some distance between Gloucester and Camden. We have here a very considerable and growing

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**Charles Aceto Bus Co.—Auto Buses on Fairview No. 2 Route, Camden.**

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community which is entitled to have reasonable transportation facilities and it should not be deprived of such facilities merely because it is necessary to parallel existing trolley lines to furnish them, and if the applicant is willing to supplement his present service by the installation of an additional bus for the purpose of reducing the headway from one hour to one-half hour, we see no reason why he should not be permitted to do so provided that he receives or discharges no passengers after leaving the Pennsylvania Railroad Ferry until after he has passed the intersection of Broadway and Hudson Street, Camden; and going from Highland Park to Camden, will receive no passengers after leaving Broadway and Hudson Street, Gloucester; and provided further that the applicant displays prominently upon the bus a suitable sign to this effect.

If the applicant is willing to accept a permit under those conditions, an order will be issued approving his application.

Dated August 22d, 1921.

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**No. 917.****IN THE MATTER OF THE APPLICATION OF CHARLES ACETO BUS COMPANY FOR PERMISSION TO OPERATE AUTO BUSES ON FAIRVIEW NO. 2 ROUTE, CAMDEN, N. J.**

Application for approval of local licenses to operate auto buses is denied where it appears that sufficient transportation facilities exist without use of the applicant's buses.

*David H. Goff*, for the Petitioner.

*L. D. H. Gilmour* and *R. W. Wakelee*, for the Public Service Railway Co.

This is an application for the approval by the Board of a license granted by the City of Camden to the applicant to operate two auto buses, commonly known as jitneys, over a route part of which is also the route of a street railway line.

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**Charles Aceto Bus Co.—Auto Buses on Fairview No. 2 Route, Camden.**

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Hearing in this matter with that of several other applications, was held in Camden, May 14th, and June 20th, 1921.

The route begins at the Pennsylvania Railroad Ferry, passing out Federal Street to Broadway, to Kaighn Avenue, to Mt. Ephriam Avenue, to Collingswood Road, into Fairview. Returning, the route continues out Broadway, from Broadway and Federal Street, to Market Street, thence on Market Street to the Ferry. The route parallels on the same street the tracks of the Public Service Railway Company outbound the entire distance to Mt. Ephriam Avenue and Ferry Street, which is a greater portion of the distance of the total route. Inbound, the route parallels on the same street the tracks of the Public Service Railway Company from Mt. Ephriam Avenue and Ferry Street to Broadway and Federal Street, at which point the route continues out Broadway to Market Street, thence paralleling on Market Street the tracks of the Public Service Railway Company to the Ferry. The permit for the operation of these buses was issued on March 15th, 1921.

The buses are scheduled to operate on a fifteen minute headway over the route and require about forty-five minutes to make the round trip.

There was testimony in the form of charts, graphs and tabulations of data indicating the number of buses and trolleys operated and the number of passengers carried and the seats furnished by both during a period of eighteen hours.

The data submitted indicates that approximately sixty-five per cent. of the passengers carried on the buses operating over this route, of which there are several, board and alight from these buses either in the village of Fairview or along Mt. Ephriam Pike, that is, at points where the route does not parallel the tracks of the Public Service Railway Company. The testimony further indicates that there is a great excess of seats furnished by both methods of transportation over and above the number of passengers carried in and out of Fairview and the immediate vicinity; also that the buses are carrying seventy-five per cent. of the total number of passengers, while the cars are only carrying twenty-five per cent. in and out of Fairview. It is apparent, therefore, that while the buses are carrying a large percentage of the total passengers, yet with the existing transportation facilities, the traffic is being amply provided for.

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Charles Aceto Bus Co.—Auto Buses on Fairview No. 2 Route, Camden.

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From the testimony it also appears that the Fairview-Mt. Ephriam Avenue buses carry passengers from Mt. Ephriam Avenue to Broadway, whereas the Sixth and Eighth Street Line of the Public Service Railway Company does not operate to Broadway, Sixth Street, upon which the car line operates in this locality, being one block east of Broadway.

From the testimony it also appears that there is an excess of car seats being furnished on the Sixth and Eighth Street Line.

It was developed by the Public Service Railway Company that the village of Fairview had been created by the Federal Government incident to the war and that the company had been compelled to construct at great expense a connection from its regular line on Broadway to and into the village, together with the necessary equipment to maintain service. It was argued by the company that this should be considered as an element in this matter.

A resume of the testimony convinces the Board that sufficient transportation facilities exist without the use of the applicant's buses to provide a reasonable service in and out of Fairview and its immediate vicinity and, further, that there are sufficient existing transportation facilities along Mt. Ephriam Avenue to provide reasonable service without the use of the applicant's buses. The application is therefore denied.

Dated August 22d, 1921.

### ORDER.

The Board having on the twenty-second day of August, one thousand nine hundred and twenty-one, made and filed a report in the above-mentioned matter, which report, by reference thereto herein, is made part hereof, the Board hereby finds and determines that the privileges or franchises to operate auto buses granted to the Charles Aceto Bus Company by the City of Camden, a political subdivision of this State, on the fifteenth day of March, one thousand nine hundred and twenty one, are not necessary and proper for the public convenience and do not properly conserve the public interests and the Board of Public Utility Commissioners HEREBY ORDERS the same disapproved.

Dated September 8th, 1921.

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Phillipsburg Transit Co.—Increase in Street Railway Fares.

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**No. 918.****IN THE MATTER OF THE APPLICATION OF THE PHILLIPSBURG TRANSIT  
COMPANY FOR INCREASE IN STREET RAILWAY FARES.**

A street railway company operating in New Jersey, also across the Delaware river between Phillipsburg and Easton and in the city of Easton, is permitted to increase its rate from five cents to seven cents, it appearing that the fare for the interstate fare and the fare in Easton is seven cents, and the revenues under the five-cent fare are insufficient.

*T. J. Perkins*, for the Petitioner.

*John M. Cody, Sylvester C. Smith and George L. Record*, for Phillipsburg.

The petition alleges:

“That the petitioner operates a street railway system in the Town of Phillipsburg, the Township of Pohatcong and the Borough of Alpha (all in the State of New Jersey), and also operates its cars to the line between the States of New Jersey and Pennsylvania on the Delaware River bridge between the Town of Phillipsburg, New Jersey, and the City of Easton, Pennsylvania.

“That the petitioner proposes to change its rate of fare from five cents to seven cents for a single trip between any points on its system. The street railway system of the Phillipsburg Transit Company connects with the street railway system of the Easton Transit Company, which operates in the City of Easton, Pennsylvania, and vicinity, at the state line aforesaid, this connection affording a joint transportation service between points on the systems of the two companies. The rate of fare on the Easton Transit Company’s system is seven cents per zone, and the same rate of fare obtains for the joint interstate service between points on petitioner’s system and points in Easton. (Note: Interstate passengers are allowed transfer privileges in Easton of the seven-cent fare.)

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Phillipsburg Transit Co.—Increase in Street Railway Fares.

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“That the petitioner intends to give notice of the proposed increase in fares by serving notice on the municipal authorities of the Town of Phillipsburg, the Township of Pohatcong and the Borough of Alpha, together with such notice of the time and place fixed for hearing as the Board may direct.

“That the reason for the increase in fares proposed is to enable the company to meet its increased operating expenses.

“That the appraised value of the company's property in the year 1914 was \$327,373.23, without any allowance for leased property, materials and supplies or working capital.

“That said amount includes no intangible capital.

“That in 1918, under the existing five cent fare, the deficit was \$13,572.92; in 1919 the deficit was \$20,063.82.”

The predecessors of the present Board held hearings in this matter on May 13th, 1920, and June 24th, 1920. It was then stipulated by counsel that the proposed increase in rate should not be effective until the matter had been passed upon by the Board.

Further hearings were held by the present Board on April 26th and June 7th, 1921, and the previous record made a part of the record before the present Board. The matter was taken to conference June 7th, pending submission of briefs on both sides at a later date.

The petitioner was incorporated April 9th, 1887, by a special act of the New Jersey Legislature and the supplement to same approved February 27th, 1868, and began railway operations in the year 1871. Ninety-nine and ninety-five hundredths per cent. of its stock (amounting in all to \$326,300) is owned by the Easton Transit Company, which operates the street railways in Easton and outlying communities. The manager of the Phillipsburg Transit Company described its system and operation substantially as follows:

Starting at the Interstate Line on the Delaware River Bridge, the system branches at the Pennsylvania Railroad crossing at Union Square (in Phillipsburg), divides into two lines, one extending south along Main Street to a terminus at Alpha, outside the city limits, the distance of that line being a little less than four miles. The other line is the North Main Street Line, which traverses certain streets to the north to a terminus on Center Street within the city limits, near

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**Phillipsburg Transit Co.—Increase in Street Railway Fares.**

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the Ingersoll Rand plant, a distance of about two and three-quarters miles. Both of these lines are single track lines and we operate nine cars on regular schedule, the total trackage being a little less than seven miles. The Phillipsburg system connects with the line of the Easton Transit Company operating in Easton and vicinity, the connecting point being at the middle of the Interstate Delaware River Bridge between Phillipsburg and Easton. (Note: The track and bridge belong to the bridge company, for which the Easton Transit Company pays an annual rental of about \$3,724.)

The general traffic arrangement between the two companies for joint service has been somewhat as follows: For some years the Phillipsburg Company operated across the Interstate bridge and along Northampton Street to Center Square, Easton. Some time ago, however, the Phillipsburg Transit Company was advised by its lawyers that the charter of the Phillipsburg Transit Company granted no right for it to do business outside of the state, and that there is no state law which granted any such right. The petitioner was further advised that it would be wise to remove this illegality, and if possible, to continue the service which of course was a convenience and benefit to the public. It was therefore proposed that the Phillipsburg Company should operate to the state line and the Easton Company should operate from that point to points on its system in the State of Pennsylvania. The most natural way to have done this would have been for each company to issue a transfer good upon the lines of the other company. The franchises of the Phillipsburg Company provide that patrons of that line are to be given a transfer good in the first fare zone of the Easton Company, and it was also found that the traffic in each direction was substantially equal, that is, \* \* \* the eastbound traffic from Easton was substantially equal to the westbound traffic from Phillipsburg. The most natural way would have been to arrange for the transfer of these passengers at the Interstate line on the bridge. But in view of the fact that the traffic was equal, and in order to avoid the transfer of these passengers and the in-

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Phillipsburg Transit Co.—Increase in Street Railway Fares.

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convenience to the public, an arrangement was made whereby the cars were run through; passengers do not have to change cars or go through the transfer performance, and each company retains the amount of fare it collects for the business originating in its own territory. This makes an equitable arrangement for each company, gives them the same revenue that they would get as if the cumbersome transfer scheme was used, and at the same time is a convenience and benefit to the public. That is the arrangement that is now in effect. The Phillipsburg Transit Company in Easton owns no property in Easton.

The petitioner put in its affirmative case somewhat along the following lines.

## VALUE OF PROPERTY DEVOTED TO PUBLIC USE.

As stated in its petition, the Board made a valuation of the company's property as of the year 1914 in the amount of \$327,378.23, this valuation having been made in connection with the application of the Phillipsburg Horse Car Railroad Company (predecessor of the petitioner) for permission to issue \$400,000 worth of stock in addition to the \$30,000 then outstanding. The Board gave approval of the issue of \$296,300 in addition to the \$30,000 of capital then outstanding, making a total capitalization approximating the appraised value. The details are given in the Board's sixth annual report for the year 1915, at pages 118 et seq. Additions made since that date to December 31st, 1920, bring the total amount up to \$348,779.58. The results of operation for the years 1917, 1918 and 1919, together with the estimated results for the year 1920, were submitted in Exhibit P-4 appended to the petition. The Board has since received the annual report of the company giving the exact figures for the year 1920 on a basis of six-cent fare for January and February and a seven-cent fare from March 1st, 1920, for interstate traffic and five cents for traffic within the State of New Jersey. The 1920 results are shown in Table I following:

## Phillipsburg Transit Co.—Increase in Street Railway Fares.

TABLE I.

INCOME STATEMENT OF PHILLIPSBURG TRANSIT CO. FOR THE YEAR 1920 AS SHOWN IN ITS ANNUAL REPORT TO THIS BOARD (CENTS OMITTED).

Passenger Revenue .....	\$141,108
Other Transportation Revenue .....	77
Miscellaneous Revenue .....	2,323
<b>Total Operating Revenue .....</b>	<b>\$143,508</b>
<b>Operating Expenses:</b>	
1. Way and Structures .....	\$14,691
2. Equipment .....	13,715
3. Power .....	28,691
4. Conducting Transportation .....	77,165
5. General and Miscellaneous .....	20,663
	<b>\$154,915</b>
<b>Taxes .....</b>	<b>10,567</b>
<b>Revenue Deductions .....</b>	<b>165,482</b>
<b>Railway Operating Deficit .....</b>	<b>\$21,974</b>
<b>Non-operating Income .....</b>	<b>5</b>
<b>Net Corporate Deficit for 1920.....</b>	<b>\$21,969</b>

The railway operating deficit as shown in Table I approximated \$21,970. Counsel for the municipality claimed that, as the Phillipsburg Transit Company was a subsidiary of and entirely controlled and operated by the Easton Transit Company, the operating agreements between them should be subjected to rigid scrutiny.

Two agreements for joint operation and apportionment of expenses were submitted in the record. Exhibit P-14 was the agreement made the 11th day of January, 1917, between the Easton Transit Company and the petitioner. This agreement provided that the cars of the petitioner might operate along the lines of the Easton Transit Company from Northampton Street to Centre Square, and providing for the storing and repairing of cars of the petitioner in the barns and shops of the Easton Company, the Easton Company agreeing to provide and maintain the lines in Easton to permit of such operation, and to accept transfers from the passengers of the Phillipsburg Company, at Centre Square, such transfers to be good on any of the lines of the said Easton Company within the five-cent fare limit (effective in 1917). The Easton Company also was permitted to operate its cars upon such terms as might be agreed upon in the State of New Jersey. The peti-

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Phillipsburg Transit Co.--Increase in Street Railway Fares.

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tioner agreed to pay the rental for operating its cars over the tracks of the Easton Delaware Bridge Company and to pay all charges and all taxes due to the State of New Jersey, or municipal authorities, all taxes on cars, franchises and other taxes and assessments in the States of New Jersey and Pennsylvania; and the petitioner further agreed to pay to the Easton Company two cents per cash passenger crossing the Easton Delaware Bridge, it being understood and agreed that 70.07 per cent. of the total cash passengers of the Phillipsburg Company cross said bridge; 1/12 of 15 per cent. of the investment cost of track, paving and overhead line on East Northampton Street, it being understood and agreed that such investment cost at the time of this agreement was \$9,463.96; also 1/12 of 15 per cent. of the Easton Company's investment cost of car barn and shop facilities, it being understood and agreed that such investment cost at the time of this agreement was \$101,928.53.

All the fares collected on the Phillipsburg Company's cars in New Jersey and Pennsylvania were to be the property of the Phillipsburg Company, and the Easton Company was to retain all fares collected by it from passengers transferred from the Easton Company's lines to the Phillipsburg Company's lines. The effective date of this contract was retroactive to February 16th, 1915.

The second contract was made the 22d day of December, 1919, between the same parties. This contract provided that the Easton Company should operate the cars of the petitioner, delivered to it at the state line between the States of Pennsylvania and New Jersey on the said Easton-Phillipsburg bridge, in both directions to and from Centre Square, Easton, and such other points as might be mutually agreed upon \* \* \* and the Easton Company was to supply the necessary power and pay all the cost and expense of such operation including the entire rentals which might be exacted for the use of the Interstate bridge; that the Phillipsburg Company should operate its cars used in the joint through interstate service in its territory and deliver the same to the Easton Company at the said state line for the operation in Pennsylvania; that the Easton Company should provide for the storing and repairing of the cars of the petitioner in the barns and shops of the former company, the cost of labor and materials used in repairs being charged to the Phillipsburg Company in addition to the payments provided for in Article Six of the contract. That each company should collect from

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**Phillipsburg Transit Co.—Increase in Street Railway Fares.**

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every passenger boarding its cars in its territory the joint through interstate fares for the full trip within the city fare zones of both companies and retain the amount so collected, it being understood that the division of the joint fares provided for was entered into in order to simplify accounting and because the number of interstate passengers traveling in each direction across the Easton-Phillipsburg bridge was substantially equal. Provision was made for the modification of this provision if the traffic investigation warranted it. That each company should pay as rental for cars of the other company used in its service the cost of maintenance determined on a car mileage basis and for interest, depreciation, insurance and taxes, 12 per cent. per annum on the cost of such cars, interest being taken at six per cent. of cost. That the cost and expense of maintaining the joint through interstate service covered by this agreement should be divided between and borne by the parties as follows: Each party shall pay and bear all of its fixed charges and all taxes and assessments imposed on its property or business; that the Phillipsburg Company shall pay to the Easton Company certain charges (mentioned in the contract) apportioned on a car mileage basis, that is, the same proportion of the total expenditure by the Easton Company for joint account for items enumerated which the car mileage on the Phillipsburg system bears to the total car mileage on the two systems.

Counsel for the municipality objected to this change of contract and asked that the petitioner supply information as to what would have been the results of operation of the system in 1920 if the 1917 contract were in effect during 1920 instead of that of 1919 upon which the income statement shown in Table I is predicated. The petitioner furnished this in Exhibit P-16, which shows that the deficit of \$20,063.80 in 1919, had the old agreement been in effect, would have been increased by substantially \$16,500. Counsel for the municipalities submitted no evidence but reserved the summing up of their objections for statement in their formal brief filed in the matter.

In their brief, counsel for the petitioner claim that the Easton Company absorbs an undue share of the interstate revenue, and in proof of same submitted a statement of adjusted receipts and expenses of the Phillipsburg Transit Company for the year 1920 modified on the theory that the petitioner should have the right to be credited with the entire revenue from interstate traffic at the rate of seven cents per fare, subject to certain deductions for services

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 Phillipsburg Transit Co.--Increase in Street Railway Fares.
 

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rendered by the Easton Company. It is not clear to the Board that the Phillipsburg Transit Company has a right to have such allocation of revenue from interstate business made to it. For the purposes, however, of setting forth the contention of counsel for the municipalities. Table II with modifications which should be made to follow the weight of the evidence in parallel column is given as follows:

TABLE II.

COMPUTATION OF ADJUSTED REVENUE AND EXPENSE OF PHILLIPSBURG TRANSIT COMPANY SUBMITTED BY COUNSEL FOR PHILLIPSBURG AND IN PARALLEL COLUMN, AMENDMENTS THERETO MADE BY THE BOARD.

Ref.	Counsel's Description of Items.	Phillipsburg Counsel.	Board.
Ex.P-20	Revenue—		
	Total interstate passengers, 2,653,384 at 7 cents .....	\$185,737.88	\$185,737.88
Ex.P-20	Phillipsburg passengers, 1,060,758 at 5 cents .....	53,037.90	53,037.90
Ex.P-19	Miscellaneous .....	76.65	76.65
Ex.P-19	Non-transportation revenue .....	2,328.03	2,323.32
Ex.P-8	Due from Easton Co. 1919.....	2,189.94	.....
	Total revenue .....	\$243,370.40	\$241,175.75
Ex.P-19	Operating Expenses, Phillipsburg Transit Co. ....	\$165,481.50	\$165,481.50
	Wages, motormen and conductors between Delaware Bridge and Center Square ( $\frac{1}{4}$ mile) compared with average run in Phillipsburg.		
Ex.P-19	1/16 of \$64,885.01 .....	4,000.00	10,063.00 (1)
	Bridge rental .....	3,500.00	3,724.00
	Rental of tracks in Easton (Counsel's estimate) .....	3,750.00	3,750.00
	Cost of power .....	4,000.00	2,177.00 (2)
Ex.P-24	160,640 tripper passengers 50% of 7 cents or 3.5 cents .....	5,622.33	5,622.33
Ex.P-24	872,888 transfer passengers to and from points beyond Centre Sq. (in Easton) average of 0.50 mile out of total average of 3 miles at 1.3 cents.....	11,347.54	30,860.51 (3)
	Franchise and gross receipts taxes in New Jersey on amount of revenue in excess of \$143,508 (at 7.11 per cent. of \$97,672) .....	.....	6,944.48
		\$197,701.37	\$228,622.82
	Net revenue on this basis .....	45,606.03	12,552.93
	Return in per cent. on \$348,780.....	13.08%	3.60%

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Ex. P-25, (3) For \$872,888 passengers mileage charge is $872,888 \times$ pg. 34 $0.5 \times 1.3789$ or .....	\$6,018.12
For 872,888 passengers standby charge is $872,888 \times$ $0.5 \times 5.692$ or .....	24,842.30
For 872,888 passengers total Easton cost is.....	\$30,860.51
(2) Pro rated on car mile basis $36,672 \times \$28,691 =$	\$2,177.
(1) Testimony, p. 98 of 6/24/20 says about \$10,000 or 7 minutes per round trip of 0.492 m. $36,672$ car miles per trip = $74,536$ $0.492$ annual trips. At 7 minutes per trip this is 8,698 car hours. Cost per car hour is $64,885 \div 56,091 = \$1.157$ ; hence $8,698 \times 1.157$ $56,091$ or \$10,063 is cost of platform wages.	

As computed by the Phillipsburg counsel in its brief and abstracted in Table II, the net revenue is claimed to be \$45,606.03, or 13.08 per cent. return on the value of \$348,788. In a parallel column under the caption of "Revenue" the Board excludes the value of \$2,189.94, this being apparently an amount due on a settlement for 1918 and not a part of the 1920 revenues, nor a revenue which will continue from year to year.

The Board determines the wages to be paid platform men on the basis of the testimony shown on page 98 of the hearing of June 24th, 1920, taken in connection with statistics shown in the company's annual report for 1920. The witness, as cited on page 98, stated that the cost of this operation for wages of platform men approximated \$10,000. To check this up, the Board takes the testimony that it requires seven minutes for the round trip of 0.492 miles, and that 36,672 car miles were run in the year, indicating 74,536 annual trips, which at seven minutes per trip would be equivalent to 8,698 car hours. The cost per car hour is ascertained by dividing the platform wages of \$64,888 by 56,091 car hours, giving a total of \$1,157, which, multiplied by 8,698, gives \$10,063 for the cost of this operation.

The record in the case indicates that the bridge rental is \$3,724 (petitioner's brief, page 35). With respect to cost of power, the counsel's figure of \$4,000 is too high. The total number of car miles operated on East Northampton Street is 36,272 out of 483,267 car miles operated on the Phillipsburg system. The cost of the latter operation for power being \$28,691, would indicate by proportion a figure of \$2,177 for the cost of power. With respect to the cost of transporting the 872,888 transfer passengers to and from points be-

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Phillipsburg Transit Co.—Increase in Street Railway Fares.

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yond Center Square, Easton, counsel for Phillipsburg make a computation by assuming that each of these transfer passengers rode a half a mile at a cost of 1.3 cents per mile.

A study of Dr. Conway's analysis of the cost from which the incorrect figure of 1.3 cents is taken would indicate that this was only a part of the cost of handling these transfer passengers. The movement cost per mile, as shown in Exhibit P-25, prepared by Dr. Conway, indicates that the movement cost per mile is 1.3789 cents, and the movement cost to the Easton Transit Company in amount is \$257,416.29. This is not the total cost, however, incurred by the company with respect to such passengers, for the reason that \$471,183.16 of other cost is also incurred, which, divided by 8,277,888 passengers (in fares), gives a standby charge for initial and transfer passengers of 5.692 cents per passenger. Assuming that this should be divided equally between initial and transfer passengers would give a cost (for each of the 872,888 transfer passengers for the standby charge) of 2.846 cents. The sum of these two costs would indicate that the total cost on the basis of Exhibit P-25 would be \$30,850.51 instead of the \$11,374.54 shown in the Phillipsburg counsel's estimate.

In addition to the foregoing changes, the increase in revenue above the \$143.507 received in 1920 would be charged with taxes for franchise and gross receipts in lieu of personal property tax. This tax, on a pro rated basis, would amount to \$6,944.48, which is omitted by counsel for Phillipsburg from computation shown in Table II. The adjusted net revenue as found by the Board on the assumption made by the counsel for Phillipsburg would indicate a net revenue of \$12,552.93, or 3.6 per cent. on the capital base.

Petitioner's counsel might with equal justice set up a contention along the lines of the objector's counsel, assuming that it should receive seven cents on each interstate passenger, paying to the petitioner a mileage rate for such passengers transported in New Jersey, as suggested by the objector's counsel in its brief (the figures for which were set up in Table II). If the computation were made *strictly* along the lines of the objector's counsel, as shown in Table II, it would indicate that the petitioner's *deficit* on its 1920 business would exceed \$50,000.

In order to determine definitely the cost to the Easton Transit Company of the service as rendered to the petitioner, Dr. Conway prepared Exhibit P-25 entitled "Study of the Cost of the Service to the Easton

Phillipsburg Transit Co.—Increase in Street Railway Fares.

Transit Company in Connection with Handling Interstate Business in Conjunction with Phillipsburg Transit Company." In preparing this exhibit, Dr. Conway used the so-called "Wisconsin" method, dividing costs into several classes, which in the final result were allocated partly to standby or terminal costs per passenger and partly to movement cost per mile per passenger. As hereinbefore referred to, his conclusion was that on a basis of 1920 operations, a standby cost per passenger (in fare) was 5.692 cents, and that the movement cost for each mile which a passenger travels is 1.3789 cents. In arriving at these figures, a net return upon the investment arrived at in transportation was taken at \$152,190.97. Using these figures, Dr. Conway arrived at a conclusion that the amount of revenue received by the Phillipsburg Transit Company would not equal its pro rated cost of handling the interstate business by the amount of \$13,411, as shown by the following Table III.

TABLE III.

FROM EXHIBIT P-25, P. 34-35.

Cash passengers eastbound in interstate traffic—

The number of cash passengers boarding Easton Company cars and riding eastbound to Phillipsburg is (page 8) .....	1,326,692
On this business, the Easton Company is entitled to its "stand-by" cost of 5.6920 cents per passenger (including the ready-to-serve cost on transfer passengers) or.....	\$75,515.31
In addition, the Easton Company must defray the expenses incident to the movement of the interstate passengers over its lines. This represents the total passenger miles traveled over the Easton Company's lines by such passengers, or 1,961,016 passenger miles (page 13), which at 1.3789 cents per passenger mile equals .....	27,040.45
To which must be added the rental paid by Easton Company, for use of trackage to the Easton Delaware River Bridge Company, .....	3,724.02
<b>Grand Total .....</b>	<b>\$106,279.78</b>
For handling the above business, the Easton Transit Company, under the contract of December, 1919, receives 7 cents (or full interstate cash fare) on all eastbound interstate cash passengers which, as previously shown, in 1920, was 1,326,692.*	
1,326,692 at 7 cents .....	92,868.44
<b>Loss .....</b>	<b>\$13,411.34</b>

\*As a matter of fact, the Easton Company received 5 cents and 6 cents from such traffic during January and February, 1920. The above comparison assumes that the 7-cent interstate rate was effective throughout the year.

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Phillipsburg Transit Co.—Increase in Street Railway Fares.

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In the same exhibit, pages 40 and 41, Dr. Conway calculated the cost of the Easton Company of handling the interstate traffic of the petitioner and the net revenue received by it above such net cost from the petitioner. On page 41 he states his conclusion that the net return arrived at for this class of traffic was \$7,898.07 in excess of the \$84,970.37 cost of service excluding return on property.

If, during the year 1920, the company had charged seven cents on its intrastate business instead of five cents, it would have received two cents more on each of the 1,060,758 fares received, or a total of \$21,215.16. Out of this amount, however, it would have been required to pay for taxes on the 1920 basis 7.11 per cent. or \$1,508.40; this would leave approximately \$19,700 of additional revenue. In addition to this it would have received one-half cent revenue on the interstate fares received during the months of January and February, when a six-cent interstate fare was in effect. Had a seven-cent fare prevailed for all business during the year 1920, both on the intrastate and interstate business, the company's taxes and operating expenses would have very nearly approximated the revenues received under such seven-cent fare, but the company would have received no return on its capital of \$347,788.

Vice Chancellor Pitney, in his opinion in "Long Branch v. Tintern Manor Water Company, N. J. E., Vol. 70," stated that it was helpful to compare the rates of different companies operating under substantially the same conditions in order to determine the reasonableness of the rates in question.

Wm. L. Doyle, as receiver, operated the traction system of the Northampton, Easton and Washington Traction Company, operating between Port Murray and a terminus in Phillipsburg, the miles of track operated being 18.012. During the entire year 1920 the Receiver operated this company under a seven-cent fare. The railway operating revenues under this schedule were (cents omitted) \$86,370, the operating expenses and taxes were \$77,721, and the railway operating income was \$8,649 and the net corporate loss for the year \$28,354. Under a five-cent fare the loss in operating would have been about \$15,000, with no return on capital. The terminus of this road in Phillipsburg is approximately at the intersection of Sitgreaves and Stockton Streets, about six-tenths of a mile from Union Square in Phillipsburg, along the line of the petitioner's railway on

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**Phillipsburg Transit Co.—Increase in Street Railway Fares.**

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South Main Street. Passengers from points between Washington and Phillipsburg must pay the full fare upon taking the cars of the petitioner from Union Square without any traffic agreement existing so far as known to the Board.

In addition to the fact that the Northampton, Easton and Washington Traction Company has been granted a seven-cent fare, it is pertinent to remark that no other traction company in the State of New Jersey, with the single exception of the petitioner, at the present time operates at a fare of less than seven cents.

**CHARACTER OF SERVICE RENDERED.**

We have considered the complaints of the municipality with reference to the character of the service and are of the opinion that, in view of the difficulties of operation incident to the interruption of traffic at Union Square coupled with the fact that this is a single track road, no affirmative findings should be made by us on that matter in this report. The street railway company is not responsible for the interruptions due to crossing blockades. It may be that the municipality could itself obviate much of this difficulty through co-operation with the steam railroad company in connection with the blockade of the crossing by its trains, either through some amicable arrangement or by ordinance.

The record in the case satisfies the Board that the company is entitled to the relief prayed for.

The Board therefore finds and determines that the petition should be and is hereby granted subject to the following conditions:

1. That the allowance of the increase granted herein is taken as a stipulation that abrogation or modification of such increase in rates may be made as and if conditions as indicated by operating results both as to revenue and character of service rendered warrant.

2. That said increase of rates may become effective upon five days' notice to the public through newspapers and by placards placed in each car operated along the lines of the petitioner.

3. That beginning with the effective date of the rates herein allowed the petitioner shall render to the Board monthly reports. These reports are to furnish for each current month and for the same

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**Monmouth County Water Co.—Amendment to Mortgage.**

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period of the preceding year the financial and statistical data required in the annual reports as follows: on page 22, total transportation revenue, total miscellaneous revenues, total operating revenues; the data indicated on page 20; on page 26, recapitulation of expenses; also a statement of the amount set aside for depreciation of ways and structures and also for equipment.

The Board will retain jurisdiction of the increase as herein approved for the purpose of modifying same as and if conditions change.

Dated August 26th, 1921.

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**No. 919.**

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF AMENDMENT TO MORTGAGE OF THE MONMOUTH COUNTY WATER COMPANY.

*J. Filhian Tatem*, for the Petitioner.

This matter, which was heard by the Board on May 31st at Trenton, involves a change in certain provisions of a mortgage made by the Monmouth County Water Company to the Columbia Avenue Trust Company of Philadelphia, on November 1st, 1914.

The original mortgage was approved by this Board November 30th, 1914, it being a general and refunding mortgage. The mortgage provides that certain bonds are to be reserved for refunding from time to time bonds formerly issued by one of the companies which on consolidation became part of the Monmouth County Water Company. The mortgage further provides that additional bonds may from time to time be issued for the purpose of paying for additions or "extensions, betterments or acquisitions" to the property of the company where "the same have been made or contracted for since the date hereof," this date being the date of the mortgage, November 1st, 1914.

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**Monmouth County Water Co.—Amendment to Mortgage.**

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In a petition submitted to the Board some months since, a number of items were listed of additions and extensions which, upon being checked up, were found to be properly chargeable to capital account and under ordinary circumstances proper subjects for capitalization and so far as such matters were concerned the Board's inspector recommended that approval be given to the issuance of the necessary securities to provide for the permanent capitalization of the extensions and additions involved. The company shortly after discovered that certain of these items had been actually constructed prior to the date of the mortgage and that in accordance with the terms of the mortgage bonds covering the charges to construction made prior to November 1st could not properly be issued.

The object of the petition now presented is to obtain the approval of this Board for such changes in the mortgage as will make possible the permanent capitalization of additions to the property, properly chargeable to capital account, which had been constructed prior to the execution of the mortgage referred to. The parties to this agreement are the Monmouth County Water Company, the American Pipe and Construction Securities Company, which owns the majority control of the bonds of the Monmouth County Water Company, and the Columbia Avenue Trust Company, the trustee of the mortgage. With the application the Monmouth County Water Company has submitted a tripartite agreement in which all the interested parties have agreed to the change in the mortgage.

This application involves at the present time no issue of securities and the matter of issuance of securities under this mortgage or under its amendment is not before the Board and is not passed upon in this report. The Board sees no objection to the amendment of the mortgage in the way proposed and will therefore approve the same.

A certificate will issue.

Dated August 30th, 1921.

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Gravity Water Supply Co.—Increase in Rates.

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**No. 920.**
**IN THE MATTER OF THE APPLICATION OF THE GRAVITY WATER SUPPLY COMPANY FOR INCREASE IN RATES.**

A water company is permitted to increase its rates, it appearing that with the increase the return to the company will be less than six per cent. on its tangible assets.

*Clarence E. Case*, for the Petitioner.

The petition alleges:

That the present and proposed schedules of rates are as follows:

		Present Rate.	Proposed Rate.
First	9,000 gals. per M.....	\$0.33 ½	\$0.44 ½
Next	21,000 gals. per M.....	.28	.37 ½
Next	30,000 gals. per M.....	.25	.33 ½
Next	90,000 gals. per M.....	.23	.30 ½
All over	150,000 gals. per M.....	.20	.26 ½
Minimum charge	per quarter.....	3.00	4.00

That said increases in rates are necessary to meet an increase in office expenses and to provide a fund for amortization of depreciation and to enable the company to pay a dividend of six per cent. per annum;

That the petitioner began operating in the year 1918;

That no dividends were made to the shareholders until December 31st, 1918, but from that time dividends have been paid at the rate of four per cent. per annum.

In opening its case, counsel stated that due notice had been given to the customers of the increase proposed and the time and place of the hearing thereon.

The petitioner operates a small water supply system in the Townships of Bedminster and Bernards and in the Borough of Far Hills, supplying approximately one hundred consumers in the municipalities named.

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Gravity Water Supply Co.—Increase in Rates.

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The assets of the company on December 31st, 1920, aggregated \$35,282, against which there was issued capital stock in the amount of \$32,180. The operating revenues of the company for the year 1920 were as follows (cents omitted): metered private service (affected by the proposed increase in rates) furnished revenue of \$2,507; municipal water service \$356; interest on the bank balances \$17; a total of \$2,880. The operating expenses and taxes amounted to \$1,314, leaving a net operating revenue of \$1,566.

This utility was organized in 1916 but did not begin service until 1918. Its annual reports indicate that during the period ending December 31st, 1920, its earnings, adjusted to provide depreciation in the amount of 1.2 per cent. on its depreciable property, would have been as follows, in percentage of the average assets each year:

For the year 1916, a return of.....	1.5 per cent.
For the year 1917, a return of.....	3.32 per cent.
For the year 1918, a return of.....	2.37 per cent.
For the year 1919, a return of.....	2.81 per cent.
For the year 1920, a return of.....	3.42 per cent.
An average for the five-year period of.....	2.67 per cent.

During this five-year period the company has been passing through its development period with a view to establishing its business.

In the expenses, however, no provision was made for amortization of fixed capital (depreciation). The Board's engineer estimates that the petitioner should provide approximately \$400 per annum on the basis of the present capital installed which equals about 1.2 per cent. on the depreciable property. Deducting this \$400 from the net operating revenue would have left \$1,166 available for return on capital. It was stated during the hearing that certain of the expenses will increase somewhat during the coming year to the extent of possibly \$100 or more.

The result of operations for the ensuing year substantially on the basis of the increased rates petitioned for would have been somewhat as follows:

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Gravity Water Supply Co.—Increase in Rates.

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## ESTIMATED INCOME FOR ENSUING YEAR UNDER RATES AS ALLOWED.

Metered revenue (1920 revenue of \$2,507 increased $\frac{1}{2}$ ).....	\$3,343	
Hydrants as in 1920 .....	356	
Miscellaneous revenue as in 1920.....	17	
		<hr/>
Total Revenue .....		\$3,716
Expenses as in 1920 .....	\$1,204	
Expenses, increases taken as .....	100	
Expenses, for amortization of depreciation (1.2%) .....	400	
		<hr/>
Total as estimated .....	\$1,704	
Taxes as in 1920 .....	100	
		<hr/>
Total Revenue Deductions .....		\$1,804
		<hr/>
Net Revenue Available for Return on Value.....	\$1,912	
6% on tangible assets of \$35,282 as of December 31st, 1920.....	\$2,117	

On the basis of the revenue which may be obtained from the increased rates it is apparent from the above calculation that the company will fall somewhat short of a six per cent. return on its capital. This shortage, however, may be made up by the natural growth of the petitioner's business within a comparatively short time.

The schedule of rates as proposed is somewhat awkward in that it has unusual blocks of consumption and rates ending in fractions of a cent. In the findings the Board will modify the proposed schedule, making blocks and rates more in accordance with the usual practice in water rates, but being substantially equivalent to the schedule filed.

The Board therefore finds and determines:

(1) That the Board is satisfied that the petitioner is entitled to an increase in revenue in substantially the amount petitioned for.

(2) That in order to produce this revenue the following schedule of quarterly metered rates may be filed by the petitioner within ten days after receipt hereof, viz.:

For the first 10,000 gallons per quarter 45 cents per M. gallons.  
 For the next 20,000 gallons per quarter 37 cents per M. gallons.  
 For the next 30,000 gallons per quarter 33 cents per M. gallons.  
 For the next 90,000 gallons per quarter 30 cents per M. gallons.  
 Excess over 150,000 gallons per quarter 25 cents per M. gallons.  
 Minimum quarterly bill to be rendered, \$4.00.

(3) That these rates, if filed, may become effective for the consumption of the last quarter of 1921.

Dated September 13th, 1921.

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 West Wildwood Water and Power Co.—Approval of Bonds.
 

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**No. 921.**
**IN THE MATTER OF THE APPLICATION OF THE WEST WILDWOOD  
WATER AND POWER COMPANY FOR APPROVAL OF THE ISSUE OF  
\$4,800 IN PAR VALUE OF BONDS.**

*Herbert F. Harris*, for the petitioner.

The petition in this matter asks the Board to approve the sale of \$4,800 of par value of six per cent. first mortgage bonds maturing in 1937 (to be issued under an existing open mortgage) to be sold at not less than 80 to reimburse the treasury for expenditures for capital purposes heretofore made as follows:

Labor and materials installing 1-inch galvanized pipe, with two T's every forty feet, with plugs, sidewalk stops, as follows:	
Poplar Avenue from Neptune S. E. ....	1,300 ft.
Avenue B. ....	300 ft.
Avenue C. ....	325 ft.
Avenue E. through to Pine Ave. ....	750 ft.
Avenue F. ....	325 ft.
Neptune, from Glenwood to Pine. ....	425 ft.
Arion, Poplar to Glenwood ....	425 ft.
Maple Avenue S. E. from R. R. to 91 Block 13. ....	1,800 ft.
5,650 ft.	

The company has heretofore issued \$3,400 in par value of bonds under the mortgage above referred to and has issued \$3,900 in par value of its capital stock. It has a small distribution system and buys its water from the City of Wildwood and supplies the public in the Borough of West Wildwood, Cape May County.

Testimony was adduced showing that the cost of installing the above 5,650 feet of pipe with T connections each 40 feet for new customers was \$3,842, this being at the rate of 18 cents a foot for material and 50 cents a foot for labor.

An examination of the annual report of the company for the year ending December 31st, 1920, indicates that the assets of the company aggregate \$13,504.62. The company, as above indicated, has issued \$3,400 in bonds and \$3,900 in capital stock, a total of \$7,300;

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Wm. G. Braem to Jacob V. Meola—Transfer of Permit to Operate Bus.

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which, deducted from the assets above stated, leaves a surplus of \$6,300. This \$6,300 would afford ample margin to provide for the issuance of \$4,800 of first mortgage bonds.

The 1920 annual report further indicates that the gross income of the company applicable to the payment of interest aggregated in 1920 about \$870. If the Board approve the issuance of the \$4,800 of bonds the interest of the then total outstanding amount of \$8,200 will aggregate \$492, which is covered by the gross income for the year 1920 with a safe margin.

The Board therefore APPROVES of the issuance of the \$4,800 in bonds applied for, subject to the provisions of Conference Order Number Seven.

A certificate of approval will issue.

Dated September 13th, 1921.

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**No. 922.**

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF TRANSFER  
OF PERMIT FROM WILLIAM G. BRAEM TO JACOB V. MEOLA TO  
OPERATE BUS ON RIVERSIDE ROUTE, PATERSON.

1. The Board will assume as a matter of policy that the number of jitneys in operation on March 15th on any given route were necessary to meet the traffic conditions on that route and would as a matter of course approve all applications for mere substitution or renewals of existing bus permits, unless it appeared that conditions had so changed since the 15th of March as to make some other conclusion necessary or advisable; bearing in mind the fact that public necessity and convenience is to be the determining factor in reaching a conclusion.

2. The only question in this case is whether the evidence produced by the objector is of such a character as to justify the Board concluding that the permit should not be granted. Upon a consideration of the evidence the Board concludes the application should be granted.

*R. S. Colfar*, for the Applicant.

*E. W. Wakelee*, for the Objector.

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**Wm. G. Braem to Jacob V. Meola—Transfer of Permit to Operate Bus.**

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This is an application for the approval of the transfer of a permit, granted by the City of Paterson to William G. Braem, to Jacob V. Meola to operate a bus on what is known as the Riverside route in the City of Paterson. The route is as follows: Starting at Ellison Street, on Washington Street, and continuing to Market Street, thence to Main Street, thence to Main Street, to Broadway, thence on Broadway to Bridge Street, thence on Bridge Street to River Street, thence on River Street to First Avenue, in the City of Paterson, returning practically via the same route, with the exception that it continues on through Washington Street from Broadway to Ellison Street terminal. The route also practically parallels the tracks of the Public Service Railway Company over its entire route.

The petitioner produced a certified copy of the permit of the Board of Works of the City of Paterson. The original license or permit was issued by the City of Paterson prior to March 15th, 1921. This is one of those cases where the applicant merely desires to acquire the bus of the present operator and continue its operation under a new permit granted to himself since March 15th. That fact brings it within the jurisdiction of this Board.

It is a case which will be governed by the Becker case in which the Board said:

“The policy of the Board in applications presented to it will be to approve all licenses or permits granted by the municipalities in renewal or substitution of all licenses or permits existing prior to March 15th, unless it can be affirmatively shown that conditions pertinent to the consideration of the necessary factors have so changed as to make either an increase or decrease in the number necessary.”

In other words, the Board will assume, as a matter of policy, that the number of jitneys in operation on March 15th on any given route were necessary to meet the traffic conditions on that route and it would, as a matter of course, approve all applications for mere substitutions or renewals of existing bus permits, unless it appeared that conditions had so changed since the 15th of March as to make some other conclusion necessary or advisable, bearing in mind, of course, the fact that public necessity and convenience is to be the determining factor in reaching a conclusion. Therefore, while we

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Wm. G. Braem to Jacob V. Meola—Transfer of Permit to Operate Bus.

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are not bound irrevocably to approve every application, it should appear affirmatively from the evidence that conditions have so changed as to make a transfer inadvisable.

The only question in this case is whether the evidence produced by the objector is of such a character as to justify us in concluding that this permit should not be granted. That is a question of fact. Upon a consideration of the evidence we conclude that this application should be granted.

Dated September 13th, 1921.

An appeal was taken from the Board's decision in this case to the Supreme Court. The decision of the Supreme Court follows:

NEW JERSEY SUPREME COURT.  
November Term, 1921.

PUBLIC SERVICE RAILWAY COMPANY, *Prosecutor*,

vs.

BOARD OF PUBLIC UTILITY COMMISSIONERS, AND JACOB V. MEOLA,  
*Defendants*.

Argued November 2d, 1921; Decided March 8th, 1922.

SYLLABUS.

1. A jitney, the route of which parallels upon the same street the line of a street railway is a public utility.

2. Where a person bought, after March 15th, 1921, a jitney (which was a public utility under Chapter 149 of Laws of 1921) and which was operated on March 15th, 1921, by its prior owner, under a municipal consent obtained prior to that date, and the present owner, after March 15th, 1921, obtained a new municipal consent to the operation of the jitney, such consent is invalid until approved by the Board of Public Utility Commissioners after hearing and determination upon competent proof that such privilege is necessary and proper for the public convenience and properly conserves the public interests, as required by Section 24 of the Public Utility Act (P. L. 1911, p. 384), and the mere fact that the jitney was in operation by the prior owner on March 15th, 1921, pursuant to a consent granted prior to that date, will not justify the board in approving the new consent.

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Wm. G. Braem to Jacob V. Meola—Transfer of Permit to Operate Bus.

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On certiorari, etc.

Before Justices Trenchard, Bergen and Minturn.

*Edmund W. Wakelee and Frank Bergen*, for the Prosecutor.

*L. Edward Herrmann*, for the defendant Board of Public Utility Commissioners.

*Richard S. Colfax and John H. Reynolds*, for the defendant Jacob V. Meola.

The opinion of the court was delivered by

TRENCHARD, J. On August 26th, 1919, William G. Braem obtained municipal consent to operate an auto bus (commonly called jitney) on what is known as the Riverside route in the City of Paterson, pursuant to the "Kates Act" (Chapter 136 of P. L. 1916, p. 283). He operated the jitney accordingly until shortly before September 13th, 1921, when he sold the bus to Jacob V. Meola. The latter thereupon obtained a new municipal consent to the operation of the bus, and applied to the Board of Public Utility Commissioners for the approval of such consent.

The Board, after hearing, made an order granting such application, and that order is brought up for review by this writ.

The order is challenged upon the ground that the Board erroneously granted the application without determining the public necessity for the operation of the bus upon the route in question in the method prescribed by Section 24 of the Public Utility Act of 1911.

We are of the opinion that the point is well taken, as will appear from an examination of the proceedings and order in question and the statutes involved.

The order is predicated upon a policy announced by the Board at the hearing as follows:

"The policy of the Board in applications presented to it will be to approve all licenses or permits granted by the municipalities in renewal or substitution of all licenses or permits existing prior to March 15th, unless it can be affirmatively shown that conditions pertinent to the consideration of the necessary factors have so

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Wm. G. Braem to Jacob V. Meola—Transfer of Permit to Operate Bus.

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changed as to make either an increase or decrease in the number necessary."

We think that policy as applied in the instant case involves a misconstruction of a pertinent statute, and is erroneous.

Section 24 of the Public Utility Act (P. L. 1911, p. 384) provides that "*No privilege or franchise hereafter granted to any public utility as herein defined, by any political subdivision of this state, shall be valid until approved by said Board, such approval to be given when, after hearing, said Board determines that such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests.*"

Section 1 of Chapter 149 of Laws of 1921, p. 390 (being an amendment of the Public Utility Act), provides that a "*jitney, the route of which in whole or in part parallels upon the same street the line of any street railway*" is a "*public utility*" and subject to the jurisdiction, supervision, regulation and control of the Board of Public Utility Commissioners. Section 2 of that act reads:

"2. Nothing herein contained shall extend the powers of the Board of Public Utility Commissioners to include any supervision and regulation of, or jurisdiction and control over, the operation of any auto bus, commonly called jitney, over its present route, under and in accordance with the consent of the municipal authorities granted therefor prior to March fifteenth, one thousand nine hundred and twenty-one, *by the owner of such consent on said date, or under and in accordance with the renewal of such consent granted to such owner as aforesaid, for further operation by him, upon the expiration of the time limit set forth in such consent.*"

The latter section merely denies power to the Board to supervise the operation of any jitney over its route under a municipal consent granted prior to March 15th, 1921, "*by the owner of such consent on said date or under any renewal of such consent granted to such owner as aforesaid, for further operation by him, upon the expiration of the time limit set forth in such consent.*"

It is to be noted that the defendant Meola was not the owner of any consent on March 15th, 1921, nor is he the holder of any "*renewal of such consent granted to such owner as aforesaid,*" and this is important. He became the owner of the jitney, and received municipal consent, after March 15th, 1921.

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Wm. G. Braem to Jacob V. Meola—Transfer of Permit to Operate Bus.

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Now the Board, after deciding that a jitney, the route of which parallels upon the same street the line of a street railway (such as the one in question), was a public utility, and after deciding that the owner's municipal consent was not valid until approved by the Board, both of which determinations were correct, then proceeded, erroneously as we think, to approve the consent without any evidence that the privilege permitted was necessary and proper for the public convenience and properly conserved the public interest, except the fact that the auto bus was in operation by the prior owner on March 15th, 1921, pursuant to a municipal consent granted prior to that date.

The Board seems to have substituted what it, mistakenly as we think, deemed to be the legislative policy for its own judgment, based on evidence, as to the public necessity. It assumed, because the legislature did not give the Board jurisdiction over the operation of jitneys under municipal consent granted prior to March 15th, 1921, "by the owner of such consent on said date" or under any renewal granted to "such owner," that Meola, the present owner of the bus which he acquired after March 15th, 1921, and which was operated on that date by the prior owner under a consent granted prior to that date, was entitled to an approval of his new municipal consent granted after March 15th, 1921, regardless of change in ownership, unless it affirmatively appeared to the Board that there was no public necessity therefor.

We think that assumption erroneous. Neither Meola nor his bus was excluded from the jurisdiction of the Board by the second section of the Act of 1921 above recited. As we have pointed out, he was not the *owner* of such consent on *March 15th, 1921*, nor was he the holder of any renewal of *such consent granted to such owner*, and hence was not in the protected class.

It was necessary for him to obtain, and he did obtain, after March 15th, 1921, a municipal consent, and that consent was not valid until approved by the Board. The exclusion from the jurisdiction and control of the Board of such of the jitneys as were in operation prior to March 15th, 1921, applied only to such operation as long as the owner continued in the business. Evidently it was the intention of the legislature not to disturb those then in business by imposing further conditions unexpected by them, and that is easily

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Washington Electric Co.—Increase in Rates.

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understood. If the legislature had desired to exclude from the jurisdiction of the Board the *number of buses in operation on March 15th, 1921*, or if, as suggested, the legislature intended that the Board should not comply with Section 24 of the Public Utility Act so long as the *number of buses* was not increased, it would have been very easy to have said so, and that it did not do. The legislature has chosen to require that a consent such as that in question shall be valid *until* approved by the Board of Public Utility Commissioners after hearing and finding of public necessity and convenience. Of course that finding must be the independent judgment of the Board based upon competent proof, and cannot depend upon the action of the municipal body granting the previous consent, for public necessity does not follow from that. The fact that some one else had a municipal consent issued prior to March 15th, 1921, to operate this bus, does not relieve the present owner of showing public necessity. As we have pointed out he could not legally operate his bus until he had obtained municipal consent, and that consent would not be valid until approved by the Board pursuant to the requirements of Section 24 of the Public Utility Act, and that, we think, has not been done.

The order under review will be set aside, with costs.

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No. 923.

IN THE MATTER OF THE APPLICATION OF THE WASHINGTON ELECTRIC COMPANY FOR FURTHER INCREASE IN RATES.

1. Application is made by An electric utility for such increase in rates as will provide a reasonable yearly sum for amortization purposes and pay current debts, interest on bonded indebtedness of \$50,000 and such additional sum thereto as to the Board may seem proper.

2. A total of \$49,000 is taken as a basis for rates. Allowing a return of seven per cent. on this amount it is estimated \$28,715 will be required to provide such return and meet production and other expenses including \$1,440 for depreciation.

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3. A rate schedule is fixed estimated to produce \$28,019, the difference being due to disallowance of an increase in charges for street lighting for which the company is under contract that does not expire until June 1st, 1922. The Board holds the company must absorb the loss in the amount allowed for return until the contract expires.

*Elmer King*, for the Petitioner.

The petition in this matter was set down for hearing originally on December 28th, 1920, but was actually heard on May 17th, 1921, after notice to the Mayor of the Borough of Washington and notice by publication in a local newspaper. The schedule of rates applied for was suspended until the first day of April but it was understood that the rates would not go into effect until the Board could arrive at a conclusion in the matter.

The petition states that the present rate schedule which it is proposed to increase is as follows:

Light—First 50 K. W. Hours, 15 cents per K. W. Hour.  
 Second 50 K. W. Hours, 10 cents per K. W. Hour.  
 All over 100 K. W. Hours, 9 cents per K. W. Hour.  
 With a cash discount of 5 per cent. for payment within ten days.

Power—First 3,000 K. W. Hours, 3 cents per K. W. Hour.  
 All over 3,000 K. W. Hours, 2½ cents per K. W. Hour.  
 With a cash discount of 5 per cent. for payment within ten days.

Demand charge \$3.00 per month per rated H.P. based on the following:

	1 Motor	2 to 3 Motors	4 to 7 Motors	8 plus Motors
3 H.P. and less .....	90%	80%		
3 to 5 H.P. ....	80	75	70%	
5 to 7 H.P. ....	75	70	65	
7 to 10 H.P. ....	70	65	60	55%
10 to 20 H.P. ....	65	60	55	50
20 to 40 H.P. ....	60	55	50	46
40 to 50 H.P. ....		50	46	42
60 H.P. plus .....		40	38	35

That the company proposes to add fifteen per cent. to bills computed under the foregoing schedule so that the amount paid for service by the applicant's customers would be the amount they would owe under the aforesaid rates plus fifteen per cent. of such amount to be added thereto.

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That the reasons for the increase sought are that the present rates charged are insufficient to allow the applicant to furnish safe, adequate and proper service due to the fact that there has been a large increase in the cost of operating and maintaining the applicant's plant; that since the year 1918, when the schedule of rates now in effect was approved by the Board the cost of coal, which is from 40 to 45 per cent. of the total cost of operation, has increased from \$3.95 per ton to \$6.02 (at the time of the hearing to \$5.62); labor, which is approximately 25 per cent. of the expense of operating applicant's plant, has increased from \$90 and \$100 per month to \$125 and \$160 per month, an average of 66  $\frac{2}{3}$  per cent.; oil and other regular supplies required by petitioner have increased about 33  $\frac{1}{3}$  per cent. That the operation of petitioner's plant for the first nine months of the year 1920 shows a net loss of \$992.78 exclusive of any charges for profit or for amortization.

Subsequent to the hearing the company withdrew the original application for permission to add fifteen per cent. to its existing rates as hereinabove recited and asked for relief so that the Board may by specific order add thereto such sufficient sums as may be necessary to provide a reasonable yearly fund for amortization purposes and to pay current debts, interest on bonded indebtedness of \$50,000 and such additional sum thereto as to the Board may seem proper.

## VALUE OF PROPERTY AS A BASIS FOR RATES.

In a report of this Board dated July 30th, 1918 (Reports P. U. C., Vol. VI, p. 317), the company was allowed an emergency increase in rates pending the submission of a valuation of its property. Such an inventory and cost price of its plant and property were subsequently submitted to the Board. The Board's engineer has checked up the figures submitted and applied fair unit prices to the items of inventory and has received proof (testimony, p. 18) that the fixed capital of the applicant as of December 31st, 1920, approximated \$45,000 and working capital \$4,000, a total of \$49,000 as a basis for rates. The amortization of depreciation thereon may be taken in the amount of \$1,440 per annum on the property now in use. A return of seven per cent. on this amount would amount to \$3,430

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per annum. The value of \$49,000 is comparable with the book value of \$121,230 (\$117,030 of fixed capital and about \$4,200 working capital as shown in the company's annual report). Against this amount of capital the company's annual report shows a funded indebtedness of \$50,000 and capital stock of \$50,000.

## OPERATING EXPENSES AND TAXES.

Before making an estimate of the operating expenses it will be necessary to approximate the sales expected to be made during the coming year.

Power. During the year 1920 the company sold approximately 140,000 kilowatt hours of power, about 84,000 kilowatt hours of which were sold to one customer which the company has since lost. This will leave about 56,000 of current to be used by power customers.

Commercial Lighting. The company sold for commercial lighting about 132,000 kilowatt hours of current and its manager estimates an increase of ten per cent. in the use of such current in the coming year, which would make a total of 146,100 kilowatt hours.

Street Lighting. The use of current for street lights during 1920 amounted to 62,986 kilowatt hours. Three lights have been added and the company's manager estimates the use of current for this purpose at 64,090 kilowatt hours.

To provide for line loss and current used by the company and to supply current in the amounts above mentioned will require 337,000 kilowatt hours to be generated during the coming year. To generate one kilowatt hour in 1919 required 9.25 pounds of coal (according to the company's annual report) and 10.19 pounds in the year 1920. The Board will assume the use of 9.25 pounds of coal per kilowatt or 1,558.6 tons, taken as 1,560 short tons. As the company is now paying \$5.62, \$9,000 may be taken as the cost of coal to be used for the ensuing year. This is contrasted with the amount of \$11,713 paid for coal in 1920. Station repairs for the year 1920 aggregated \$2,094. The station repairs for the six years ending December 31st, 1919, averaged less than \$500 per year. It is within the knowledge of the Board that the station was not ade-

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quately maintained during this six years. It would appear that the year 1920 was abnormal, however, and the Board will assume that \$1,000 would be sufficient for this item.

Table I, following, will show the estimated operating expenses for the ensuing year, as estimated by the applicant and as taken by the Board.

TABLE I.

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 OPERATING EXPENSES FOR THE ENSUING YEAR ESTIMATED ON BASIS OF CURRENT COSTS.
 

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	Estimate of	
	Applicant.	Board.
Production Expense—		
Wages .....	\$4,500	\$4,500
Fuel .....	10,116	9,000
Other Station Supplies .....	800	800
Station Repairs .....	1,500	1,500
Total .....	\$16,916	\$15,300
Distribution Expense .....	1,500	1,250*
Municipal Street Lights .....	1,000	1,000
General and Miscellaneous, omitting Account 494.....	4,700	4,600*
General and Miscellaneous, Depreciation, Account 494..	.....	1,440
Total Operating Expenses .....	24,116	23,590
Taxes .....	1,043	1,643
Uncollectible Bills .....	50	52
Total Revenue Deductions .....	25,809	25,285
7% return on \$49,000 .....	4,304	3,430
Total Revenue Required .....	\$30,113	\$28,715

\*Amount spent in 1920.

The principal difference in the two estimates, except as hereinabove noted, will be found in the depreciation charge of \$1,440, included in the Board's estimate but omitted in the company's estimate. The total revenue deductions as indicated by the company's estimate, omitting provision for depreciation, are \$25,809 as estimated by the applicant and \$25,285 as estimated by the Board, the latter figure including \$1,440 for depreciation or amortization thereof. The company's estimate of the revenue to be produced by the proposed rate

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Washington Electric Co.—Increase in Rates.

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is \$27,200 for the year 1921; fifteen per cent. added thereto would increase this amount to \$30,113, which exceeds the revenue deductions of \$25,809 by \$4,304. The Board adds seven per cent. return on \$49,000 capital (or \$3,430), all of which added to the revenue deductions of \$25,285 as shown in Table I, makes total indicated revenue of \$28,715 against \$30,113 estimated by the applicant. If \$1,440 were allowed for depreciation in the applicant's estimate, the indicated revenue would be \$31,553, which is nearly \$3,000 in excess of the amount indicated in the estimate of the Board and in the opinion of the Board indicates that the amount asked by the company is in excess of the amount required to afford a seven per cent. return on its capital.

## ADJUSTMENT OF INDIVIDUAL RATE SCHEDULES.

**Power.** An analysis of the cost of service has been made and indicates, with respect to the power schedule, that the demand charge is somewhat too large, whereas the charge for current actually consumed is too small; that the charge per horse power per month should be approximately \$2.50 net and that the cost of current should be approximately, on the first block, 4.25 cents net; or, to provide for discount of five per cent., the demand charge should be \$2.60 per horse power per month and the cost of current 4.5 cents per kilowatt hour consumed, less five per cent. in each instance.

**Commercial Lighting.** With respect to commercial metered lighting, the gross increase of one cent per kilowatt hour consumed, less five per cent. discount, appears to be adequate.

**Street Lighting.** With respect to municipal street lighting rates, analysis indicates that there is some justification for the company's application for permission to increase these rates. The company, however, has a contract with the borough for street light service which does not expire until June 1st, 1922. The Board will not disturb this contract in its findings, and the company must absorb the loss in the amount allowed for return until the contract expires, at which time the company may renew its application with respect to street lighting rates if the facts then warrant.

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 Washington Electric Co.—Increase in Rates.
 

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Recapitulation of the estimated revenue to be produced by each class of service under these adjustments of rates follows in Table II.

TABLE II.

STATEMENT OF REVENUE ESTIMATED TO BE PRODUCED BY SCHEDULE OF RATES  
HEREINAFTER RECITED, DURING THE ENSUING YEAR.

I. Municipal Street Lights (as per contract) .....	\$4,578
II. Metered Commercial Light—	
146,000 kilowatt hours (at 13.5 cents average) .....	19,722
III. Metered Power—	
Demand (6 customers) .....	\$1,310
Current 56,350 kilowatt hours .....	2,419
Total .....	3,719
Total from sales of electricity .....	\$28,019

A comparison of the revenue to be produced as estimated in Table II with the revenue required as estimated by the Board in Table I indicates that the revenue expected to be produced falls about \$700 short of the required revenue. This is due to the disallowance of the increase in the street light rates until the expiration of the contract now in force (June 1st, 1922).

The facts set forth hereinbefore indicate that the flat increase of fifteen per cent. on the existing schedules of the company is not warranted by the facts but that the company is entitled to relief to the extent indicated.

## CONCLUSIONS.

The Board therefore finds and determines:

1. That the schedule of rates filed is unjust and unreasonable and the Board disapproves the same.
2. That the applicant is, however, entitled to an increase in rates upon the state of facts set forth in this report.
3. That it may file the following schedule of rates:

- I. MUNICIPAL STREET LIGHTING, effective until June 1st, 1922.
  - 80 candle power light \$24 per year.
  - 100 candle power light 30 per year.
  - 250 candle power light 60 per year.

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II. COMMERCIAL METERED LIGHTING.

For the first 50 kw. hrs. per month 16 cents per kw. hr. gross.  
 For the second 50 kw. hrs. per month 11 cents per kw. hr. gross.  
 For the excess over 100 kw. hrs. per month 10 cents per kw. hr. gross.  
 Minimum monthly bill \$1.15 gross per meter for a full month's service.  
 Less a uniform discount of five per cent. (5%) for payment within ten days after the bill shall have been actually rendered.

III. COMMERCIAL METERED POWER.

This shall be a two-part rate:

- (a) 4.5 cents per kw. hr. gross for meter registration for first 3,000 kw. hrs. and 3.5 cents gross per kw. hr. for excess.  
 (b) Demand charge: \$2.60 gross per horse power of maximum demand, calculated as follows:

	1 Motor	2 to 3 Motors	4 to 7 Motors	8 Motors and over.
3 H.P. and less .....	90%	80%		
Above 3 H.P. up to 5 H.P. ....	80	75	70%	
Above 5 H.P. up to 7 H.P. ....	75	70	65	
Above 7 H.P. up to 10 H.P. ....	70	65	60	55%
Above 10 H.P. up to 20 H.P. ....	65	60	55	50
Above 20 H.P. up to 40 H.P. ....	60	55	50	46
Above 40 H.P. up to 50 H.P. ....		50	46	42
Above 50 H.P. up .....		40	38	35

Less a uniform discount of five per cent. (5%) of bill computed under (a) and (b) for payment within ten days after the bill shall have been rendered.

- (c) For small motors operating on the lighting schedule \$1.15 gross minimum monthly bill per horse power or fraction of horse power installed will be charged less discount for prompt payment.

Day current for power to be furnished from 7 A. M. to 6 P. M. on ordinary work days.

4. That the schedule of rates set forth in (3) shall be effective with the current consumed between the usual meter readings in September and October, 1921, known as the October bills.

5. The filing by the company of the increase herein suggested will be taken as a stipulation that abrogation or modification of the increase in rates may be made as and if conditions as indicated by operating results both as to revenue and the character of service rendered warrant.

6. Beginning at the effective date of the rates herein indicated as just and reasonable, if filed, the company shall render to the Board monthly reports. These reports are to show the operating revenues, operating deductions, excluding amortization, non-operating income.

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Delaware River Water Co.—Increase in Rates.

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income deductions and balance available for general amortization, dividends and surplus, and also the amount appropriated for general amortization, together with a comparison with the figures for the corresponding period of the preceding year. This statement may preferably follow the forms shown in the annual report for electric utilities, revenue, page 22, columns (d) and (e); expenses, pages 24 and 26; recapitulation (with account 494 stated separately in a foot note) income statement, page 21. And the Board will retain jurisdiction of the increase as herein approved for the purpose of modifying same as and if the conditions change.

Dated September 19th, 1921.

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No. 924.

IN THE MATTER OF THE PROPOSED INCREASE IN RATES BY THE DEL-  
AWARE RIVER WATER COMPANY.

1. Amendments to its rate schedule submitted by the petitioner are disapproved, but it is determined that the company is entitled to additional revenue owing to the prevailing high cost of operation.

2. A schedule of rates is fixed providing for a demand or standby charge, governed by the size of meter, and block rates for water actually consumed. The rate for fire service is made up of two parts, a fixed service charge based on the inch foot (inches in diameter times length in feet) of fire mains allocated to the municipality and a charge for each hydrant.

*Francis J. Smith*, for the City of Beverly.

*Budd M. Rigg*, for Beverly Township.

*G. M. Hillman*, for Township of Riverside and Taxpayers' League.

*Theodore J. Grayson*, for Delaware River Water Co.

On October 15th, 1920, the Delaware River Water Company filed with the Board two "Rules" amendatory of or supplementary to its existing schedule of rates as follows:

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Delaware River Water Co.—Increase in Rates.

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## RULE.

(1) "From and after the first day of November, 1920, the Delaware River Water Company shall institute a surcharge of 25 per cent. upon the charges for water service of each and every consumer, said charge to be collected at the regular billing periods of this Corporation, and to be temporary in character, and to be maintained only so long as conditions warrant its retention."

## RULE.

(2) "On and after the first day of November, 1920, the Delaware River Water Company will furnish fire hydrant service to all the municipalities within its territory in accordance with the inch-foot system, commonly known as "The Hackensack Method," which has been already computed by this Board's engineer as applied to the company's territory, which computation shows that the probable annual returns for fire hydrant service under the aforesaid method would be \$5,893.36."

The adoption of these rules would have effected a considerable increase in the rates charged, and on this account the effective date of said rules was by order of the Board dated October 19th, 1920, suspended until February 1st, 1921; the order also fixed Tuesday, November 9th, 1920, as the date for "a hearing to determine whether the increase, charge or alteration proposed is just and reasonable."

Subsequent to the hearing held November 30th, 1920, the water company submitted for filing with the Board a third "Rule" as follows:

## RULE.

(3) "From and after the 1st day of February, 1920, the Delaware River Water Company institutes for water sold by meter measurement the following 'standby' or service charges, viz.:

5/8-inch meter—50 cents per month, with no water

3/4-inch meter—90 cents per month, with no water

the existing 'standby' or service charge for the larger size meters and rates for water used to remain as at present."

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Delaware River Water Co.—Increase in Rates.

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By agreement the effective date of the third rule filed was also postponed to February 1st, 1921; later, under power conferred by Chapter No. 101 of the Laws of 1921, which amends Chapter No. 195 of the Laws of 1911, the effective date of all of said rules was postponed to April 1st, 1921.

After due notice, hearings were held at which testimony and exhibits were submitted; briefs were later submitted on behalf of the water company and on behalf of the township of Riverside.

The Delaware River Water Company was formed in 1902 by a merger of the Beverly Water Company, organized August 13th, 1886; the Delaware River Water Company, organized October 22d, 1901, and the Riverside Water Company, organized March 20th, 1894. The present Delaware River Water Company supplies the City of Beverly, Township of Beverly and Township of Riverside. This is the same territory originally served by the three companies merged in 1902.

The original Delaware River Water Company does not appear actually to have operated at any time. The Riverside Water Company seems to have supplied water for a time from wells driven in Riverside. The Beverly Water Company supplied water from its wells in Beverly up to the time of the merger in 1902 when the operations of the plant were assumed by the petitioner and continued to the present date.

The existing schedule of rates for metered service, approved by the Board on July 10th, 1916, is as follows:

*First:* A demand (or standby) charge, determined by size of meter:

- 1-inch meter \$1.80 per month with no water.
- 2-inch meter 6.00 per month with no water.
- 3-inch meter 15.00 per month with no water.
- 4-inch meter 21.00 per month with no water.
- 6-inch meter 40.00 per month with no water.

In addition to the above fixed demand or standby charge, water actually consumed is to be charged to all customers uniformly at the following block rates:

- For the first 10,000 gallons per month, or 120,000 gallons per year, 20 cents per M. gallons.
- For the second 10,000 gallons per month, or 120,000 gallons per year, 17½ cents per M. gallons.
- For the third 10,000 gallons per month, or 120,000 gallons per year, 15 cents per M. gallons.
- For all excess over 30,000 gallons per month, or 360,000 gallons per year, 12½ cents per M. gallons.

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Delaware River Water Co.—Increase in Rates.

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The rules filed as amendments or supplements to the present rate schedule would—

*First:* Complete the list of service or standby charges by establishing a charge for the 5/8-inch and 3/4-inch meters as follows:

5/8-inch meter \$0.50 per month or \$6.00 per year.

3/4-inch meter 0.90 per month or 10.80 per year.

*Second:* Establish an emergency surcharge of 25 per cent. upon the bills for water to all metered service.

*Third:* Change the method of charging the municipalities for fire service by substituting for the present charge of \$20 per year per hydrant in Riverside and \$25 per year per hydrant in Beverly, yielding the company a revenue of \$2,465 per year, a schedule of "inch-foot" and hydrant charges which is calculated to yield the company a revenue of \$5,893.36 per year.

The following elements should be considered in determining whether an increase or change in rates is reasonable:

(a) Value of the company's property found to be used and useful in rendering service to the public.

(b) Return upon the value of such property.

(c) Amount necessary to appropriate annually for depreciation of such property.

(d) Necessary operating expenses, under efficient management.

(e) Taxes.

(f) Gross Annual Revenue required.

(g) Allocation of annual revenue to different classes of service and to the localities served.

#### A. VALUE OF PROPERTY USED AND USEFUL.

On behalf of the company there was submitted an appraisal of its property made by William H. Boardman. This appraisal shows a value new as of December 31st, 1919, of \$346,911.88, from which there was deducted \$57,531.18 for accrued depreciation, leaving a present value as of that date of \$289,380.70. Mr. Boardman then added to this total the deficits accumulated during the years 1917,

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Delaware River Water Co.—Increase in Rates.

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1918 and 1919, amounting to \$11,805.40, and an item of \$2,025.84 for plant installed from January 1st, 1920, to the date of the appraisal, making a grand total of \$303,211.94.

It is urged by counsel for the objecting municipalities that "the value of the company's property should be taken to be the cost at which it was acquired, plus the actual expenditures since made, less depreciation." It was sought by them to establish such value at some figure represented by either \$130,900, the value of the bonds issued or pledged by the company, or \$86,115.89, the taxable value claimed by the company for its property in Beverly in a statement also prepared by Mr. Boardman in December, 1917, plus the value of the property located in Riverside, derived in similar manner.

The items in Mr. Boardman's appraisal to which counsel for the municipalities objected to will be taken up separately.

The value allowed for real estate, \$23,000, is claimed to be excessive. The testimony of Charles Stokes for the company placed a value on land at the company's plant in Beverly at \$26,000, while James J. Carr, testifying for the municipalities, valued the same land at \$3,000. The statement made by Mr. Boardman in December, 1917, apparently forming the basis for determining the company's tax payments to the City of Beverly and which the objectors strongly urge should be considered by the Board in determining the value of the company's property, includes the value of this land for tax purposes at \$22,000.

It is argued by the objectors that the company does not require all of its land at Beverly since the buildings and wells located thereon could be accommodated upon a smaller area. The question of the area of land required for a water supply from wells was thoroughly discussed in the report issued in the matter of the petition of the Commonwealth Water Company for increased rates (R. B. P. U. C., Vol. VI, p. 662 et seq.).

Land owned by the company in Delran Township valued at \$500 was omitted from the Boardman appraisal.

We accordingly find and determine that the value of land is \$23,000, as claimed by the company.

An item of \$4,794 was included in the Boardman appraisal purporting to cover the cost of resurfacing streets in which the mains of the company are located. No testimony was offered to show that

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Delaware River Water Co.—Increase in Rates.

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this expense had actually been incurred by the company; therefore, this item will be disallowed.

The item of \$30,331.60 which the objectors claim should be deducted from the Boardman appraisal includes 1,518 meters valued at \$16,150, which were paid for by the company. If we concede that service connections which were not paid for by the company should not be allowed, the only deduction possible from the total of \$30,331.60 would be the item of 703 unmetered service connections, \$8,436, and the item of 1,512 service taps, \$5,745.60, a total deduction of \$14,181.60. The company, however, is entitled to have included the value of the service connections installed since the effective date of the Board's order requiring water utilities to install service pipes within the street at their expense. We, therefore, allow for the item "Service Connections" the value of the meters, \$16,150, and the costs for service connection incurred by the company since March 14th, 1917, \$5,600, as given in the annual reports filed by the company with the Board.

In Appendix I is shown the Boardman valuation as submitted and as modified in the light of testimony, exhibits and briefs submitted in the case. The allowance for cost of developing business takes into consideration any unearned depreciation and deficits which have not been made up in the natural course of the corporation's business. Comparison of the operating and other conditions of this company with similar data of other companies of about the same size and serving comparable territory, indicates great possibilities for economies in operating expenses.

To bring about a reduction of station expenses, the old Gordon-Maxwell pumps at Beverly should be replaced by electric-driven units. In plants of about this size and character, material improvement has resulted from such changes. This, however, will require additional investment of approximately \$10,000. Allowing credit to capital account for the pumps removed of \$3,700 less 30 per cent. depreciation, or \$2,590, brings the net addition to \$7,410.

The map of the distribution system is marked Ex. P-2 and testified to as having been prepared with great care. When scaled, the total length of mains shown was computed at 164,890 feet against the company's claimed total of 163,060. Independent appraisal by the Board's engineers, using data available, brings a set of totals closely approximating those found by the company's engineer.

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Delaware River Water Co.—Increase in Rates.

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During the hearing it was testified that the aggregate investment of the companies merged in 1906 was in the neighborhood of \$102,000. This total did not include some items which were claimed by the company to be part of the assets of the old Delaware River Water Company, such as franchise for the pipe line across Rancocas Creek, etc.

It was also testified that from 1906 to 1919, inclusive (Ex. P-12), there had been additions amounting to \$133,861, bringing the total investment on that basis to at least \$235,861. The total of \$301,571 up to 1906, and the total of \$436,255 up to 1919, also given in Ex. P-12, probably include such items of intangible cost as interest and deficits in operating revenues.

From a consideration of the foregoing, it would appear that the valuation of \$275,000 will do ample justice to all parties concerned. If electric units are installed as suggested above, the rate base would be increased to \$282,000.

## OPERATING EXPENSES.

The operating expenses have been steadily increasing. In 1911, with only 1,600 unmetered consumers, the total expenses including taxes, \$1,482, were approximately \$8,900. In that year there was no charge made to the depreciation or amortization reserve. In 1916, with an average of about 2,100 consumers, about one-half of which were metered, operating expenses including a charge of \$6,336 for amortization, and taxes \$4,339, were approximately \$20,000. For the first nine months of 1920 (Ex. P-6), with 2,520 consumers, of which all but 600 were metered, operating expenses including a charge for amortization of \$4,093, and taxes \$5,986, were given as \$38,500. For twelve months in 1920 the company's annual report shows actual charges amounting to \$40,612.82. This is in excess of the gross revenues for the same period.

Various items of the company's operating expenses are subject to such criticism. Pumping expenses, maintenance expenses (repairs), office and general expenses, and allowance for amortization appear excessive when compared with some other plants.

Station expenses per thousand gallons actually delivered by the pump appear to be considerably higher than the corresponding cost to other utilities of about the same size. Considerable reduction

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Delaware River Water Co.—Increase in Rates.

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could be effected in this item by the installation of electric driven pumps in place of the old steam driven units. The boilers and larger steam pump are assumed to be kept in reserve.

In addition, the policy of metering all consumers now being put into effect by the company should result in reduced station output and correspondingly lower pumping cost.

Expenses for repairs and maintenance are also higher than the corresponding expenses of companies of similar size. With the use of electric power equipment these expenses should be greatly reduced. Any extraordinary renewals or extensive repairs should be properly adjusted between capital account, operating expenses and depreciation reserve.

As to office expenses it would appear that adequate allowances would be as follows:

Administration .....	\$1,200
Accounting and billing .....	3,500
Meter reading and recording and testing, etc. ....	1,300
Total .....	<u>\$6,000</u>

In general expenses there is included in Ex. P-6 an item of \$1,061.80 for automobile expenses for nine months, or about \$1,420 for twelve months. Assuming such a vehicle to cost \$1,000, the interest at seven per cent. and depreciation at twenty-five per cent., repairs and tire renewals at \$200, gasoline, oil and incidentals at four cents per mile (6,000 miles per year) or \$240, the total would be \$760 per annum.

The item of annual amortization as derived by Mr. Boardman does not appear excessive. If the annual amortization on pumps is increased to take care of the new electrical units assumed to be installed in place of the old steam pumps, the resulting figure is very nearly the same. However, charges for maintenance and repairs on some items should be apportioned partly to operating expenses and partly credited to the annual charge for amortization for the year. The amounts charged by the company heretofore have been calculated at two per cent. of the book value of the plant less maintenance and repair charges.

In Appendix II is given a summary of the operating expenses as given in the company's annual reports and as modified.

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 Delaware River Water Co.—Increase in Rates.
 

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TABLE I.

## ALLOCATION OF THE COMPANY'S TOTAL OUTPUT FOR 1920.

	Gallons.
Total pump displacement during 1920 .....	197,621,990
Less 15 per cent. allowance for pump slippage .....	29,043,298*
Station output to mains .....	167,978,692
Of this total the sales to the ten largest metered consumers were..	16,476,000
Sales to 1,580 other metered consumers (average 30.81 M.).....	62,893,863
Total metered sales average 1,590 consumers .....	78,369,863
Water supplied to flat rate consumers .....	56,013,091
Total sales .....	134,382,954
Used at fires and hydrant flushings, est. 2 per cent.....	3,360,000
Leakage through mains and services, underregistration of meters, etc., 18 per cent.....	30,235,738
	167,978,692

\*The allowance for pump slippage (15 per cent.) is taken from the company's annual report for 1920 filed with the Board. At a recent inspection the large pump ordinarily used was found to be "short stroked" and with all its valves not seating properly.

TABLE II.

## ANALYSIS OF RETURN ON PRESENT VALUE OF PROPERTY FOR VARIOUS YEARS.

Year	Adjusted Present Value of Property	Gross Revenue	Revenue Deductions	Net Revenue	Per Cent. Return on Present Value of Property
1911 .....	\$211,001	\$23,748	\$8,890*	\$14,858	*7.05—5.55
1912 .....	215,687	24,695	10,783*	13,912	*6.45—4.90
1913 .....	224,031	28,502	13,583*	14,918	*6.66—5.16
1914 .....	233,483	31,151	24,566	6,586	2.83
1915 .....	238,573	33,532	22,369	11,163	4.7
1916 .....	247,724	37,613	25,908	11,704	4.73
1917 .....	263,349	35,470	29,525	5,945	2.26
1918 .....	264,567	36,006	32,638	3,367	1.27
1919 .....	266,093	36,563	34,711	1,852	0.7
1920 .....	270,000	38,505	40,612 (loss)	2,108	....
Weighted average return—actual .....					3.38
Weighted average return adjusted for amortization charge 1911-1913....					3.01

\*In these years no deductions were made for depreciation. If proper charges had been made for amortization the rate of return would be reduced approximately 1.5 per cent.

Delaware River Water Co.—Increase in Rates.

From the analysis in Table II it will be seen that the company has not earned more than 5.55 per cent. in its best year. Even on the assumption that the system was completely metered and that electric pumps were installed and the company's operations conducted on the most economical basis, the return on the present value of the property at present rates would be approximately 3.5 per cent. On the other hand the actual operating charges for 1920 exceeded the revenue collected by \$2,108.

The total revenue which would be derived from fire service by the method proposed by the company is as follows: Each of the 112 hydrants in place December 31st, 1920, would pay \$6.00 per year, or a total of .....	\$672
At the close of 1919 there were 858,072 inch-feet of cast iron mains in the system. During 1920 there were added 816 feet of 6-inch pipe or 4,896 inch-feet, bringing the total to 862,968 inch-feet.	
The charge per inch-foot as proposed is 0.61 cents. For the sake of facilitating the computation of this charge for each quarterly period the same will be assumed at 0.6 cents per annum per inch-foot or on 862,968 inch-feet .....	5,178
Total fire service revenue .....	\$5,850

The revenue from the service charges for each meter on the basis of all consumers being metered would be as follows:

2291— $\frac{5}{8}$ -inch Meters at \$6.00 .....	\$13,746
24— $\frac{3}{4}$ -inch Meters at 10.80 .....	259
16—1-inch Meters at 21.00 .....	346
4—2-inch Meters at 72.00 .....	288
1—4-inch Meters at 252.00 .....	252
1—6-inch Meters at 480.00 .....	480
2337 Total Service Charges .....	\$15,371

Instead of adding a surcharge of 25 per cent. to the customer's bill, it would appear desirable to increase the schedule of consumption charges. A computation has therefore been made as follows:

Sales to 10 largest consumers, 16,476 M. gallons at average of 19.5 cents per M. gallons (present charge averages 17.5 cents per M. gallons) .....	\$3,212
Sales to 2,327 other consumers (40 M. gallons each—Table I) at base rate of 22 cents per M. gallons (present base rate 20 cents per M. gallons) .....	20,477
Total revenue from consumption charges .....	\$23,689
Grand Total Revenue .....	\$45,270

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**Delaware River Water Co.—Increase in Rates.**

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If rates are readjusted as suggested immediately above, the anticipated revenue would be about \$45,270. This is based upon complete metering.

Based upon last year's actual operating charges, the company would have a net return on its investment of about \$4,000, or 1½ per cent.

If operation of the present steam plant is continued, but such economies are effected as the Board's engineers believe possible, the amount available as net return would be increased to about \$11,460, or 4.1 per cent. on the valuation of \$275,000.

If the plant is remodelled by the substitution of electrically-driven pumps, and more economical methods of operation and management put into effect, the net return could be further increased to about \$17,000, or about 6 per cent. on the valuation of \$282,000, which includes a complete complement of meters, and the net additions involved in the remodelling of the pumping plant to provide for electrical operation.

**CONCLUSIONS.**

The Board therefore finds and determines:

1. That the rates proposed by the company are unjust and unreasonable and are disapproved.
2. That the petitioner is entitled to additional revenue, owing to the high cost of operation now prevailing.
3. That in order to obtain such additional revenue the company may file with the Board, effective as of October 1st, the following schedule of rates:

**DOMESTIC SERVICE.**

*First:* A demand (or standby) charge, determined by the size of the meter:

½-inch or ⅝-inch meter	\$6.00 per year or	\$1.50 per quarter.
¾-inch meter	10.80 per year or	2.70 per quarter.
1-inch meter	21.60 per year or	5.40 per quarter.
2-inch meter	72.00 per year or	18.00 per quarter.
3-inch meter	180.00 per year or	45.00 per quarter.
4-inch meter	252.00 per year or	63.00 per quarter.
6-inch meter	480.00 per year or	120.00 per quarter.

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Delaware River Water Co.--Increase in Rates.

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*Second:* In addition to the above fixed demand or standby charge, water actually consumed is to be charged to all customers uniformly at the following block rates:

For the first 30,000 gallons per quarter or 120,000 gallons per year, 22 cents per M. gallons.

For the second 30,000 gallons per quarter or 120,000 gallons per year, 20 cents per M. gallons.

For the third 30,000 gallons per quarter or 120,000 gallons per year, 17 cents per M. gallons.

For all excess over 90,000 gallons per quarter or 360,000 gallons per year, 15 cents per M. gallons.

The minimum charge for metered service shall be \$3.00 per quarter or \$12.00 per year.

Bills for metered service may be, in certain cases, at the option of the company, made payable monthly or at any other period of time than quarterly.

Where a consumer has two or more meters on the same premises, in accordance with the above schedule he will be billed for the proper service charge applicable to each meter and for the quantity of water equivalent to the sum of the readings of all such meters.

#### FIRE SERVICE.

The rate for fire service will be made up of two parts, a fixed service charge based on the inch-foot (inches in diameter times length in feet) of fire mains allocated to the municipality and a charge for each hydrant.

(a) A fixed charge of \$6.00 per year for each 4-inch and 6-inch hydrant now installed in each municipality and a charge of \$7.50 per year for each such hydrant to be installed in the future so long as present costs obtain.

(b) Six-tenths of a cent (0.6c.) per year, corresponding to fifteen one-hundredths of a cent (0.15c.) per quarter, per inch diameter per foot of distribution mains four inches and larger now in place or to such mains which may be installed in future, provided they will furnish 30 pounds pressure per square inch at the hose connection, with a good fire stream flowing; applicable also to the proportion of the transmission system utilized in serving the particular community.

4. The company shall file quarterly with the Board the schedule of fire service charges to each municipality or fire district.

5. The rates for fire service shall become effective January 1st, 1922, and not until that time in order that the various municipalities or districts affected may make proper provision therefor in their budgets.

Dated September 22d, 1921.

## Delaware River Water Co.—Increase in Rates.

## APPENDIX I.

## DELAWARE RIVER WATER COMPANY—VALUATION OF PROPERTY.

	Boardman's Valuation.	Modified Valuation.
Items 1 to 11, which comprise the real estate, wells, pumping stations and equipment, standpipes, distribution mains, valves, fire hydrants and crossings....	\$205,306	\$205,306
Item 12, resurfacing streets .....	4,794	.....
Item 13, service connections, 703 unmetered connections, 1518 meters $\frac{5}{8}$ -inch to 6-inch.....	8,436	.....
1512 service taps .....	16,150	16,150
400 new and renewed services from main to curb, including curb stop and box, from 1917 to date of valuation, @ \$14.....	5,746	.....
Item 15, tools and equipment.....	.....	5,600
Item 17, office equipment .....	2,955	2,955
	2,162	2,162
Sub-total .....	\$245,547	\$232,174
Item 14, engineering .....	12,022	.....
Omissions and contingencies 2 per cent.....	5,401	.....
Interest during construction 5 per cent.....	13,774	.....
Taxes during construction.....	7,911	.....
Total Overhead Allowances .....	\$41,862	\$41,862
Cost to reproduce .....	\$287,409	\$274,036
Accrued depreciation (overhead allowance not depreciated) .....	57,531	.....
Accrued depreciation corrected for value of services and to include overhead allowances.....	.....	63,721
Present value of depreciable assets.....	\$220,878	\$210,315
Item 16, materials and supplies (including meters on hand) .....	12,502	12,502
Cash and working capital .....	5,000	7,500
Organization and legal expense .....	5,000	.....
Cost of developing business or going value.....	37,000	35,000
Total .....	\$289,380	\$265,317
Deficits 1917 to 1919.....	11,806	.....
Additions 1920 .....	2,026	3,807
Total .....	\$303,212	\$269,124
Number of unmetered consumers Dec. 31st, 1920....	675	
Number of meters in stock Dec. 31st, 1920.....	480*	
Additional number of meters required.....	195	
@ \$10.50 .....	\$2,048	
Setting 675 meters—80 per cent. in houses @ \$3.50; 20 per cent. at curb @ \$7.50.....	2,902	
		4,950
Grand Total .....		\$274,074

\*These are included in the valuation under materials and supplies on hand.

## Delaware River Water Co.—Increase in Rates.

## APPENDIX II.

## OPERATING EXPENSES.

ITEM.	Delaware River Water Co.—Actual Expenses Pumping at 48 lbs. sq. in.					Steam Power		Similar Co. 1920, Elec. Pumps No. 57.	D. R. Water Co. modified Steam.
	1915	1916	1917	1918	1919	1919	1920		
Pumping Labor .....	\$2,135	\$2,717	\$2,989	\$3,874	\$4,561	\$4,561	\$5,313	\$1,413	\$4,547
Pumping Fuel or Power .....	2,156	3,392	3,263	4,425	5,154	5,154	5,318	5,580(a)	4,275
Pumping Miscellaneous .....	318	407	543	526	236	236	500	403	400
Sub-total .....	\$4,609	\$6,516	\$6,795	\$8,825	\$9,951	\$9,951	\$11,131	\$7,306	\$9,222
Distribution Expense .....	1,718	1,992	1,489	1,390	2,610	2,610	1,913	1,443	1,000
Repairs Pumping System .....	973	880	1,410	580	681	681	779	128	080
Repairs Distribution System .....	1,235	1,125	1,031	3,022	2,492	2,492	2,623	3,177	1,021
Repairs General .....	51	4	380	.....	43	43	523	.....	200
Sub-total .....	\$2,259	\$2,009	\$2,821	\$3,602	\$3,216	\$3,216	\$3,925	\$3,305	\$2,501
General Amortization .....	5,904	6,336	5,524	4,657	5,497	5,497	4,865	2,157	4,200
Administration Expenses .....	.....	2,300	.....	4,235	.....	.....	3,433	.....	2,500
Accounting and Commercial .....	.....	2,144	.....	2,203	.....	.....	3,025	.....	3,500
Sub-total Office Expense .....	\$3,638	\$4,444	\$6,159	\$6,438	\$5,814	\$5,814	\$6,458	\$3,441	\$6,000
Legal Expenses .....	57	50	.....	466	.....	.....	1,262	.....	400
Insurance .....	144	95	246	632	195	195	172	273	350
Store and Stable Expense .....	.....	.....	.....	.....	.....	.....	1,528	1,469	1,000
Miscellaneous General Expense .....	137	126	233	108	299	299	1,253	569	300
Total Operating Expense .....	\$18,467	\$21,569	\$23,268	\$26,118	\$27,583	\$27,583	\$32,508	\$20,054	\$25,573
Taxes .....	3,902	4,339	6,257	6,521	7,128	7,128	8,104	4,559	8,240
Total Revenue Deductions .....	\$22,369	\$25,908	\$29,525	\$32,639	\$34,711	\$34,711	\$40,613	\$24,613	\$33,813
Total Consumers .....	2,028	2,233	2,175	2,187	2,221	2,221	2,337	1,800	2,337
Metered Consumers .....	757	1,104	1,415	1,460	1,518	1,518	1,662	330	all
Output Million Gallons .....	165*	224*	188*	196*	185*	185*	168**	195**	135**

By substituting electric pumping equipment for steam power equipment pumping expenses will be reduced to \$5,200 and total revenue deductions will be \$28,140.

\* Pump slippage not deducted.

\*\* Pump slippage deducted.

(a) The steam plant kept in reserve by this company was used in 1920 while an additional electric unit was being installed.

## Delaware River Water Co.—Increase in Rates.

## APPENDIX III.

SUBDIVISION OF FIRE CHARGES BASED ON LENGTH OF MAINS EXISTING DECEMBER 31ST, 1920.

LOCALITY.	Distrib. Mains ¾" to 6"	Inch-Feet			No. of Hydrants	Fire Service Charges		
		Distrib.	Trans.	Total.		Hydr. @ \$8.	In. ft. @ \$0.006	Total.
I. Beverly City .....	27,856	116,316	25,654	141,970	45	\$270	\$852	\$1,122
II. Edgewater Park (Beverly Twp.) ..	15,880	65,260	14,622	79,882	5	30	479	509
III. Delanco (Beverly Twp.) .....	29,600	103,600	62,680	166,280	..	...	998	998
IV. Riverside (Riverside Twp.) .....	57,500	272,884	163,055	435,939	62	372	2,615	2,987
Total .....	130,836	558,060	266,020	824,080	112	\$672	\$4,044	\$5,616

## TRANSMISSION MAINS.

Population figures not available for the various districts served. Therefore allocation of transmission mains was based on length of distribution mains, ¾-inch to 6 inches in diameter, serving each district.

*Group I:* Includes loop on Broad, Penn, Magnolia, Third, Mt. Holly and Warren St., Beverly. Total 1,280 feet of 12-inch, 2,880 feet of 10-inch and 3,050 feet of 8-inch, aggregating 65,560 inch-feet. Allocated 12.1 per cent. to Edgewater Park, 21.3 per cent. to Beverly City, 22.6 per cent. to Delanco, 44.0 per cent. to Riverside.

*Group II:* Includes mains on Warren Street, from Broad Street east, to City Line, Beverly City. Total 600 feet of 10-inch, 1,000 feet of 8-inch and 730 feet of 6-inch—18,380 inch-feet. Allocated 36.4 per cent. to Edgewater Park, 63.6 per cent. to Beverly City.

*Group III:* Includes the transmission line from Mt. Holly St., Beverly City, to Delanco, 9,900 feet of 12-inch—118,800 inch-feet. Also the loop on Buttonwood, Burlington, Ash and Washington St., Delanco, 2,750 feet of 8-inch—22,000 inch-feet. Total 140,800 inch-feet. Allocated 34.0 per cent. to Delanco, 66 per cent. to Riverside.

*Group IV:* Includes the 12-inch transmission main from Rancocas St., Delanco, to the standpipe in Riverside, 3,440 ft. of 12-inch—41,280 inch-feet. Allocated 100 per cent. to Riverside.

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New Jersey and Pennsylvania Trac. Co. et al.—Consolidation Agreement.

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## DISTRIBUTION MAINS.

Includes all cast iron mains excepting transmission lines and unsupported lengths of 4-inch mains in excess of 350 feet. There are 38,888 inch-feet of 4-inch mains from which no adequate fire service can be derived at present. This accounts for the total of 824,080 inch-feet given above instead of the total of 862,968 mentioned on page 9.

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No. 925.

## IN THE MATTER OF THE APPLICATION OF THE NEW JERSEY AND PENNSYLVANIA TRACTION COMPANY ET AL. FOR APPROVAL OF CONSOLIDATION AGREEMENT.

The amount of securities which would be outstanding after the proposed consolidation is effected, if approval is given to the company's plan, is so far in excess of any proven value that the Board is unable to give approval to the consolidation as proposed in the application of the company.

*Edgar Hunt, of Katzenbach & Hunt, for the Petitioner.*

This application, which was received August 16th, 1921, asks the approval by the Board of the consolidation of the following four companies: New Jersey and Pennsylvania Traction Company, organized under the Traction Act; the Trenton, Lawrenceville and Princeton Railroad Company, organized under the Steam Railroad Act; the Trenton, Lawrenceville and Princeton Extension Railroad Company, organized under the Railroad Act; and the Princeton Street Railway Company, organized under the Street Railway Act of 1886.

The application is made by virtue of a provision of the Traction Act which authorizes street railways and railroad companies operating as street railways to consolidate their properties.

The New Jersey and Pennsylvania Traction Company has outstanding at the present time four per cent. bonds in the par value

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**New Jersey and Pennsylvania Trac. Co. et al.—Consolidation Agreement.**

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of \$600,000 and common capital stock in the amount of \$500,000, or a total capitalization of \$1,100,000. In addition to owning the street railway property carried under its name, it is the owner of all of the stocks and bonds of the three other companies joining in this petition. The capitalization of the three underlying companies is as follows: Trenton, Lawrenceville and Princeton Railroad Company, Stock \$200,000, Bonds \$100,000; Trenton, Lawrenceville and Princeton Extension Railroad Company, Stock \$50,000; Princeton Street Railway Company, Stock \$7,000. The total, therefore, of securities of the three underlying companies, owned by the New Jersey and Pennsylvania Traction Company, is: Bonds \$100,000, Stock, \$257,000.

The petition recites in general the above facts and provides as follows: In place of the \$500,000 stock now outstanding of the New Jersey and Pennsylvania Traction Company, the stockholders of that company are to receive stock of the par value of \$330,000. For distribution among the stockholders of the Trenton, Lawrenceville and Princeton Railroad Company, in place of the stock now outstanding amounting to \$200,000, they are to receive capital stock of the new corporation amounting to \$132,000. For distribution among the stockholders of the Trenton, Lawrenceville and Princeton Extension Railroad Company, in place of the stock now outstanding amounting to \$50,000, they are to receive stock in the amount of \$33,000. For distribution among the stockholders of the Princeton Street Railway Company, in place of the \$7,000 now outstanding, they are to receive stock in the par value of \$5,000.

In view of the fact that the stocks of the three companies last named are owned by the New Jersey and Pennsylvania Traction Company, there will come into the treasury of the newly formed company its own stock in the par value of \$170,000.

This is a proceeding which has in the past met with the disapproval of this Board. Where the securities of underlying companies are wholly owned by another company with which a merger is to be effected, the only procedure necessary in such case is to cancel the stock of the underlying companies. Furthermore, this Board, on a number of occasions when petitions have been presented providing for consolidation of companies, has determined that the

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New Jersey and Pennsylvania Trac. Co. et al.—Consolidation Agreement.

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securities of a company newly formed by consolidation must bear a proper relation to the value of the property in the ownership of the newly formed company after consolidation. It is in the record before this Board that a value was fixed upon this property some years since of \$578,000. It is also of record that since that time some \$40,000 has been expended for capital additions to the property. It may be true that the values placed upon the property at that time represented the depreciated value of the property and did not correspond to what securities might have been issued at the time of the construction of the property; but the amount of the securities which would be outstanding after the proposed consolidation is effected, if approval is given to the company's plan, is so far in excess of any proven value that the Board is unable to give approval to the consolidation as proposed in the application of the company.

In the case of *American Malt Corporation v. Board of Public Utility Commissioners*, 86 N. J. L. 668, the Court of Errors and Appeals sustained the report of this Board in refusing its sanction to a consolidation of corporations which would involve the issuance of stock at a valuation in excess of the true value. The court there said, if this is permitted,

“Two corporations may accomplish by merger what neither could do alone and issue stock for property worth less than its par value. It needs no argument to show that the necessary result would be to do away with the provisions of the act requiring money or money's worth.”

The approval of the consolidation agreement is therefore denied.

Dated September 22d, 1921.

Mrs. I. S. Williams vs. Riverton and Palmyra Water Co.

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**No. 926.**

MRS. I. S. WILLIAMS

vs.

RIVERTON AND PALMYRA WATER COMPANY.

1. Complaint is made that a water company insists upon the installation of a water meter.

2. Upon consideration of all the facts, the Board is of the opinion that the company is justified in insisting upon the installation of meters where there are additions to the service involving a greater consumption of water; and it being admitted that a power washing machine is now on the premises of the complainant the company's insistence upon installing a meter is not discriminatory.

The Complainant, Mrs. I. S. Williams, appeared in person.

*Robert W. Knight*, for Riverton and Palmyra Water Company.

The respondent herein, pursuant to the declared policy of the Board and respondent's efforts to carry out that policy, is desirous of installing a water meter in the premises of the complainant in lieu of the flat rate service now rendered by it to her.

One of the Board's recommended rules for adoption by water utilities reads as follows:

"Where water is furnished by flat rate, the utility shall have the right to install, maintain and inspect a meter to determine the quantity supplied, and the applicant shall provide a suitable location therefor. The utility reserves the right to change from flat-rate service to metered service at any time under uniform nondiscriminatory rules."

The Rules, Regulations and Recommendations for Water Utilities promulgated by the Board (Part II, Section VII), provide:

"The utility shall, without charge, furnish and install each customer supplied with water on a measured basis, with a suitable meter and such service appliances as are customarily furnished by the utility in order to connect the customer's equipment with its mains."

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Mrs. I. S. Williams v. Riverton and Palmyra Water Co.

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The published service regulations and requirements of the company provide that:

"No additions, alterations, or extensions shall be made, or caused to be made, in any water pipes or fixtures that will involve a greater consumption of water than that stipulated in the permit, without first giving notice of such proposed additions, alteration or extension, and receiving a special permit from the company, authorizing the same. This rule does not apply to consumers served by meters."

The annual reports of the company show that at the end of 1917 there were only 17 meters on its system; this number was increased to 31 at the end of 1918, to 146 at the end of 1919 and to 330 at the end of 1920. The total number of customers served is approximately 1,800.

In its effort to carry out its policy of installing meters, respondent company, having ascertained that the complainant had on her premises a power washing machine which admittedly uses a very large amount of water and which undoubtedly comes within the clause of respondent's service regulations relating to additions involving a greater consumption of water, attempted to install a meter on complainant's premises. To this complainant objected on the ground, first, that she was not using the power washing machine, and second, that she was satisfied with the flat-rate service now being rendered, and thereupon filed a complaint with this Board.

The matter was heard and upon a consideration of all of the facts the Board is of the opinion that the attitude of the company in the matter is not unreasonable; that it is justified in insisting upon the installation of meters where there are additions to the service involving a greater consumption of water and that, it being admitted that a power washing machine is now on the premises of the complainant, respondent's insistence upon installing a meter is not discriminatory. The relief prayed for by the complainant is therefore denied.

Dated September 28th, 1921.

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 Laurel Springs Water Supply Co.—Increased Rates.
 

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**No. 927.**
 IN THE MATTER OF THE APPLICATION OF THE LAUREL SPRINGS  
 WATER SUPPLY COMPANY FOR INCREASED RATES.

The Board finds that the schedule of rates submitted will not produce an excessive return upon the value of the property and permits the same to be filed.

*Wilfred B. Wolcott*, for the Petitioner.

*Garfield Pancoast*, for Borough of Laurel Springs.

*Frank B. Jess*, for the Borough of Magnolia.

*W. N. Keating*, for Chas. S. King, for Clementon Township.

*Charles A. Long*, for Civic Federation of Camden County.

*W. N. Keating*, for the Borough of Stratford.

Among other things, the petition alleges:

That it has given notice of its intention to increase its rates by publishing once a week for two weeks, successively, a notice, and by mailing copies of said notice to the officials of the municipalities served;

That the rate schedule which it is proposed to increase, and the rate increases proposed are as follows:

	Present Rate Per Annum.	Proposed Rate Per Annum.
Fire hydrants .....	\$15.00	\$25.00
Private dwellings:		
Sink in kitchen .....	7.00	8.50
Bath tub .....	4.00	5.00
Water closet .....	3.00	3.75
Pave wash .....	5.00	6.25
Wash basin or additional spigot ....	1.50	2.00
Hydrant .....	5.00	6.00
Meters, personal rate .....	25c. per 1,000 gallons	30 c. per 1,000 gallons
Minimum charge for private dwelling..	15.00	15.00

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 Laurel Springs Water Supply Co.—Increased Rates.
 

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That the reason why the increases are proposed is that the additional revenue is required in order to properly operate the company's plant, pay a fair return on the investment and make due provision for depreciation of the company's plant.

The proposed increased rates were suspended until the first day of October, 1921, by order of the Board dated June 30th, 1921.

VALUE OF THE PROPERTY USED AND USEFUL AS OF SEPTEMBER  
1st, 1921.

The company, through its expert witness, submitted an appraisal of its property, a summary of which is hereinafter shown in Table I. This appraisal was arranged to show the value new classified by the system of accounts effective by order of the Board and covering tangible and intangible fixed capital on the basis of the value new and depreciated value, to which was added an allowance for working capital. The total value as claimed on behalf of the company was \$113,000. Table I follows:

TABLE I.

## VALUE OF PROPERTY, 9-1-'21.

	Vosbury, P-1.	P. U. C.
Tangible Fixed Capital (Depreciated) .....	\$92,816	\$92,189
Intangible Fixed Capital .....	17,964	14,111
Present Value Capital (Depreciated) .....	\$110,780	\$106,300
Working Capital .....	2,300	1,700
Total .....	\$113,080	\$108,000
Taken as .....	113,000	108,000

The Board has had the appraisal submitted on behalf of the company checked in detail and finds that with respect to tangible fixed capital there is very little variation. There is a difference, however, with respect to intangible capital. The company's witness shows two items under this, one of \$2,000 for organization, and the second of \$15,964; the latter is the difference between the return on the basis of 7 per cent. simple interest on capital and the actual return

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**Laurel Springs Water Supply Co.—Increased Rates.**

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enjoyed by the company compounded at 5 per cent. The latter estimate is at fault in the following way. Operating expenses are increased each year above the book figure to allow the annual depreciation charge estimated to be required by the company's engineer. The engineer did not set up as a credit against fixed capital the reserve which would be created by the charges so made to the expense. This correction has been made and the computation has been brought down to date. The total amount of intangibles thus arrived at is \$14,111.

With respect to working capital, this would necessarily be small with this company, due to its practice with respect to collecting its bills. These are collected in advance of rendering the service. The Board allows for this purpose \$1,700.

The total value as claimed by the company is \$113,000 and that as herein found by the Board is \$108,000, which includes \$1,700 for working capital.

On December 31st, 1920, the company had the following outstanding liabilities, viz.:

Funded debt (bonds) .....	\$50,000
Notes payable .....	10,750
Capital stock .....	38,200
<b>Total liabilities .....</b>	<b>\$98,950</b>

**OPERATING EXPENSES AND TAXES.**

Exhibit P-1, page 7, submitted on behalf of the company, shows the operating expenses for the years 1915 to 1920, inclusive, and eight months of 1921. During 1921 there were certain extraordinary items charged to operating expenses which more properly should have been charged to the reserve for depreciation. The company's engineer has eliminated these from the 1921 statement and (with this elimination) bases his estimate of operating expenses for the ensuing year upon the average of the results for 1920 and 1921, expanded into a twelve months period.

The items have been checked with respect to operating expenses proper, and with respect to provision for amortization of accruing

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**Laurel Springs Water Supply Co.—Increased Rates.**


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depreciation and appear to be fair under conditions now existing. The total operating expenses and taxes are shown in Table II together with the revenue estimated to be produced under the new rates (testimony, p. 40). Table II follows:

**TABLE II.****EFFECT OF NEW RATE.**

<i>Revenue estimated to be produced (New Rates)—</i>	
Revenue for coming year (test. p. 40) .....	\$14,510
Estimated operating expenses .....	\$5,021
Estimated amortization (depreciation) .....	1,767
Estimated total operating expenses .....	\$7,388
Estimated taxes .....	1,000
Estimated operating expenses and taxes .....	8,388
For return on \$108,000 capital .....	\$6,122
This is a return of 5.77 per cent.	

Table II indicates that the revenue is estimated to exceed the operating expenses and taxes in the amount of \$6,122. This indicates a return of 5.77 per cent. on the value of the property as found by the Board or of 5.42 per cent. on the value claimed by the company. This return cannot be considered excessive under conditions now prevailing.

**CONCLUSIONS.**

The Board therefore finds and determines that the schedule of rates submitted will not produce an excessive return upon the value of the property and therefore finds that the schedule of rates petitioned for is just and reasonable and will be permitted to be filed, effective for bills for service rendered on and after October 1st, 1921.

Dated September 29th, 1921.

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**Wellwood Park Improvement Asso., Inc., vs. Merchantville Water Co.**

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**No. 928.****THE WELLWOOD PARK IMPROVEMENT ASSOCIATION, INCORPORATED,****vs.****MERCHANTVILLE WATER COMPANY IN RE EXTENSION OF SERVICE.**

1. The Board is of the opinion that the financial condition of the respondent reasonably warrants the necessary expenditure for the purpose of making this extension, provided a suitable revenue guarantee is made by the petitioner.

2. Due to the difficulty of financing any extension at the present time it is considered equitable to compute the capital return on the new investment at 8 per cent.

3. The Board is not justified in ordering the extension of the main at the present time unless the customers to be served are able and willing to provide a satisfactory guarantee that the fixed and operating charges will be met.

*A. E. Schefflin*, for the Petitioner.

*Joseph Summerill, Jr.*, for Louis Starr, for the Respondent.

Complaint in this matter was filed on October 7th, 1920, and answer thereto was filed by the Merchantville Water Company on October 21st, 1920, and hearing subsequently held. From the record in the case the present situation appears to be as follows:

The Wellwood Park Improvement Association comprises a number of property owners, some of whom are customers of the respondent. At the present time these customers are served through a line of pipe of comparatively small diameter which is essentially a service pipe and is located on Oak Terrace extending from Volans Street toward Clayton Avenue. The pipe and the house connections thereto appear to have been installed only about eighteen inches under ground at the expense either of the real estate company which developed this tract of land or at the expense of the property owners. It is claimed by the respondent and admitted by the petitioner that the line of pipe along the street was to be considered as only a temporary arrangement for supplying water to the houses already built.

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Wellwood Park Improvement Asso., Inc., vs. Merchantville Water Co.

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These proceedings are brought by the petitioners in order that the water company may be required to install a main of adequate size for fire service and at a sufficient depth to prevent same from freezing during the winter. The company originally estimated the cost of installing a six-inch cast iron main 1,400 feet in length as requested in the complaint, at approximately \$3,500. The testimony indicates that a main 1,200 feet will be sufficient and the calculations made in this report with reference to the cost of this extension are based on the installation of a main 1,200 feet in length, and at prices in accordance with common knowledge as to changes in cost, which have occurred since the complaint was filed.

It appears from the record that a contract was originally submitted by the respondent company to the real estate developers providing for the installation of this main upon the guarantee of an annual revenue of seventeen cents per foot of main. Due to the increase in cost of labor and material at the time when these negotiations were in progress and to the increasing difficulty of financing new construction work, the company withdrew this proposed contract before the same was consummated.

Section 17 (c) of Chapter 195, Laws of 1911, as amended, provides that the Board shall have power to require every public utility:

"To establish, construct, maintain and operate any reasonable extension of its existing facilities, where, in the judgment of said Board such extension is reasonable and practicable and will furnish sufficient business to justify the construction and maintenance of the same, and when the financial condition of the said public utility reasonably warrants the original expenditure required in making and operating such extension."

The Board is of the opinion that the financial condition of the respondent reasonably warrants the necessary expenditure for the purpose of making this extension, provided a suitable revenue guarantee is made by the petitioner.

As of July 1st, 1919, the rates of the respondent company were re-adjusted and increased in certain particulars after investigations and hearings.

From the Board's report of June 19th, 1919, data has been obtained to determine the average amount of revenue required from

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 Wellwood Park Improvement Asso., Inc., vs. Merchantville Water Co.
 

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each metered consumer in order to meet the costs as developed in those proceedings. This calculation is detailed in Table I and shows that a revenue of \$11.90 is required per customer, based on the operating expenses and the sales of water as indicated in that report.

TABLE I.

## REVENUE REQUIRED PER CONSUMER PER 1919 RATE CASE.

	Total.	Per Consumer 1000 Metered Consumers 36,000 gal. each.
(A) Total Investment chargeable to metered consumers less distribution mains, services and meters .....	\$36,187	\$35.90
Distribution System charged to metered consumers .....	\$22,682	\$22.50
Services (all before March 1st, 1917, at consumers' expense) .....	757	.75
Meters installed .....	8,482	8.40
(B) Sub-total, three items above.....	\$31,921	\$31.65
(C) Total Investment .....	68,108	67.55
Capital Return, Depreciation and Taxes as computed in rate report on (A) .....	3,322	3.30
Capital Return, Depreciation and Taxes as computed in rate report on (B) .....	2,930	2.90
Sub-total .....	\$6,252	\$6.20
Operating Expenses .....	\$5,816	\$5.75
Franchise taxes 1.83 per cent. of two preceding items .....	221	.22
Total .....	\$12,289	\$12.17
Deduct proportional part of Miscellaneous Revenue .....	271	.27
	\$12,018	\$11.90

NOTE.—The actual revenue indicated in the 1919 annual report with adjustment for change in rate on July 1st is approximately \$12.00.

The annual reports of the company for the years 1919 and 1920 indicate that the average amount of water sold per metered customer

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Wellwood Park Improvement Asso., Inc., vs. Merchantville Water Co.

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has been larger than was then estimated and also that the operating expenses have been increased. These two items in part offset each other and in view of the decreasing tendency in operating costs at the present time it is believed that the operating expenses per customer as determined in the 1919 rate case will be sufficiently accurate for the purposes of this report. The average investment per metered consumer amounts to \$67.55. For the thirteen consumers who are expected to be connected with this proposed extension the total investment cost due to the higher prices prevailing for material and labor will be increased to \$235.71 per consumer. This cost is shown in Table II.

TABLE II.

## REVENUE REQUIRED FROM THIRTEEN CONSUMERS ON OAK TERRACE.

	Total.	Per Consumer.
(A) Total Investment chargeable to 13 consumers less distribution mains, services and meters, per Table I .....	\$406.70	\$35.00
New Distribution Main—1,200 feet @ \$1.78..	\$2,136.00	\$164.31
13 Services—main to curb—at \$24.50 each (average cost to date from May 1st, 1917) ..	318.50	24.50
13 Meters (at \$11.00 each) .....	143.00	11.00
(B) Sub-total, three preceding items .....	\$2,597.50	\$199.81
Total Investment chargeable to 13 consumers..	\$3,064.20	\$235.71
Capital Return, Depreciation and Taxes on (A), per rate report .....	\$42.00	\$3.30
Capital Return (8 per cent.), Depreciation and Taxes on (B) .....	268.06	20.62
Operating Expenses per Table I .....	74.75	5.75
(C) Sub-total Gross Revenue required .....	\$385.71	\$29.67
Add franchise taxes on (C) at 1.83 per cent. ....	\$7.06	.54
Deduct proportional part of Miscellaneous Revenue .....	3.51	.27
	3.55	.27
Total Annual Costs.....	\$389.26	\$29.94
Deduct fire charges payable by the municipi- pality, at \$0.00674 per inch-foot .....	48.53	3.73
	\$340.73	\$26.21

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**Wellwood Park Improvement Asso., Inc., vs. Merchantville Water Co.**

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In the rate-case referred to above the capital return was estimated at 7 per cent. This return was sufficient to provide approximately an 8 per cent. dividend on the company's capital stock. Due to the difficulty of financing any extensions at the present time, it is considered equitable to compute the capital return on the new investment at 8 per cent. All other items are estimated on the same basis as the cost for the present customers as determined in the Board's report referred to above.

The testimony indicates that the Borough of Merchantville and the Township of Pensauken will install two hydrants on this extension and therefore assume the inch-foot charge for the additional main payable for fire service. The cost of installing fire hydrants themselves and the revenue to be derived from them have not been included in these estimates as the cost to these consumers will not be affected thereby. Deducting the revenue to be derived from the inch-foot charge leaves a total annual revenue to be provided by the petitioners of \$340 or \$26.21 each.

The large increase in the cost is due to the fact that the investment in the distribution system per customer on this extension is approximately six and one-half times the corresponding investment for the other metered consumers of this company. Present customers pay in their rates practically no part of the cost of the house service connection as all of the services installed prior to March 1st, 1917 (which includes 85 per cent. of all of the services at present in place), were installed at the expense of the present consumers. Since March 1st, 1917, water utilities have been required under the rule of the Board to install and maintain at their own expense their service pipe from main to curb and new customers must pay this cost in their rates on an annual rather than a lump sum payment at the start. The investment cost of each meter has also been increased. The higher prices prevailing at the present time and the fact that there will be a less number of customers per mile of main on this extension as compared with the number served from the present mains, results in higher average costs. When and if additional consumers are connected to this six-inch main extension the yearly fixed charges for this main should be divided proportionately between all of the consumers attached.

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Central Railroad Co. of New Jersey—Issue of Notes.

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From the above data it is clear that the Board is not justified in ordering the extension of this main at the present time unless the customers to be served are able and willing to provide a satisfactory guarantee that the fixed and operating charges will be met. This would require a guarantee from each customer who may now be served of \$26.21 per annum. Upon receipt by the Board of the necessary proof showing that customers to be served will guarantee the revenue referred to, the Board will issue an order requiring the extension to be made.

Dated October 4th, 1921.

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No. 929.

IN RE APPLICATION OF THE CENTRAL RAILROAD COMPANY OF NEW JERSEY FOR AUTHORITY TO ISSUE NOT TO EXCEED \$6,285,000 PAR VALUE OF EQUIPMENT NOTES UNDER EQUIPMENT TRUST AGREEMENT DATED JANUARY 15TH, 1920, MADE WITH WALKER D. HINES, DIRECTOR-GENERAL OF RAILROADS AND GUARANTY TRUST COMPANY OF NEW YORK AS TRUSTEE.

By its Order and Report dated June 17th, 1920, this Board approved an equipment trust agreement made by the Central Railroad Company of New Jersey with Walker D. Hines, Director-General of Railroads, and Guaranty Trust Company of New York, as well as the issuance thereunder of six per cent. notes to the aggregate amount of \$5,775,000 par value to pay for equipment, the purchase price of which it then appeared was definitely fixed.

The petition alleges that since the making of said order and report an agreement was entered into for the purpose of revising Schedule "A" to correct an error therein; that in the correction of said error, an amendatory agreement dated September 1st, 1920, was entered into by and between the said Director-General of Railroads, the Central Railroad Company of New Jersey and Guaranty Trust Company of New York.

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**Central Railroad Co. of New Jersey—Issue of Notes.**

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The petition further recites that since the issuance of the said order and report of this Board the equipment described in Schedule "B" annexed to the equipment trust agreement had been delivered and fifteen additional temporary notes dated January 15th, 1920, each in the amount of \$162,500, aggregating \$2,437,500, have been issued together with \$675.30 in cash and covers the actual purchase price of equipment described in said Schedule "B." the difference between the minimum purchase price and the schedule purchase price being described in Schedule "A" as revised; that the actual purchase price of all said equipment has been agreed upon, determined and definitely fixed, and that the total issue of notes aggregating \$5,932,500 par value has been issued under the terms of the said agreement.

The relief sought by the present supplemental petition is the approval of the equipment trust agreement as amended and modified by the parties and authorizing and approving the issuance of six per cent. equipment notes to the amount of \$157,500 in addition to the amount authorized by this Board by its report and order dated June 17th, 1920. In the original application approval was sought of the issuance of notes not exceeding \$6,285,000 par value equipment notes; the Board approved of the issue of \$5,775,000 par value equipment notes in that it appeared that the purchase price of the equipment beyond this amount had not then been definitely fixed as appears more fully in the Board's report.

In support of the present application, F. T. Dickerson, the secretary and treasurer, testified that the actual purchase price of all the equipment covered by the equipment trust agreement had now been agreed upon, determined and definitely fixed by the Railroad Company and the Director-General of Railroads; that the price thereof exceeds the sum already approved by the Board by \$157,500 after making all necessary adjustments. A copy of the amendatory agreement entered into by the parties thereto was furnished to the Board and testimony was given showing the manner in which this amount was derived. It further appears that equipment notes in this amount have been already issued. Upon the evidence presented the Board will issue an order approving of the amendatory equipment trust agreement as well as the issuance of the equipment notes to the amount of \$157,500 thereunder.

Dated October 6th, 1921.

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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**No. 930.****ON REHEARING OF APPLICATION OF NEW JERSEY AND PENNSYLVANIA TRACTION COMPANY, FOR INCREASE IN RATES.**

1. If a railway company sees fit to enter into a competitive field in a sparsely populated district it must be assumed that it has considered the risk of competitive conditions. It cannot expect a small population to support two competitive utilities yielding each the same rate of fare or return on property which would be allowed if only one were in existence.

2. If the claims of the company on this application for a rehearing were well founded the deficit which it says would result through the alleged error would be approximately \$6,000. It appears, however, that the company has effected a reduction in wages amounting to \$6,000 a year. The Board was not aware of this when it filed its report. Even if the contention were true that the Board allowed \$6,000 less than was intended, this amount is offset by the saving in wages.

3. The Board sees no reason to modify its order and the application is denied.

*Edgar W. Hunt*, for the Company.

*Harvey T. Satterthwaite*, for Lawrence Township.

*Richard Stockton, 3d*, for the Borough of Princeton and Township of Princeton.

*Walter D. Coogle*, for the City of Trenton.

The New Jersey and Pennsylvania Traction Company filed an application for an increase in rates which was passed upon by the Board in its report of August 19th, 1921. The company, alleging, that the report contained errors, made application for rehearing. One of the alleged errors is that, in making the estimate of the number of passengers to be carried for the ensuing year, the Board erred in basing its calculations upon the number of passengers for the years 1913 to 1920 inclusive. The company's contention is that the years 1913 to 1916 cannot be used as a basis of comparison because the number of zones between Trenton and Princeton had been changed from time to time. The company operated two zones

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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up to January, 1913. From that date to October, 1916, the company operated three zones and since that date has operated four zones. The company claims that the year 1920 is not comparable with respect to traffic by reason of the fact that a strike was declared against the company, operative from April to July or August of that year.

It was not necessary, however, for the Board to use the years 1913 to 1916 or 1920 to support its conclusion. It is apparent that the years 1917, 1918 and 1919 are on a comparable basis, four zones having been operated during those years. The revenue passengers transported in 1917 were 1,476,682; in 1918, 1,610,588 and in 1919, 1,569,621. The increase in 1919 over 1917 is indicated by the ratio of 1.063 or a compound ratio of 1.031 per year. For the year beginning October 1st, 1921, this ratio, compounded for  $2\frac{3}{4}$  years would indicate about 1,710,000 passengers to be carried. The company estimated that the imposition of a ten-cent fare for each zone would entail a loss in the number of passengers transported amounting to five per cent. and claims further that under the schedule of rates permitted by the Board, four out of five passengers would take the ticket rate of thirty cents for the entire trip between Princeton and Trenton, or vice versa. As this amounts to about a ten per cent. increase as compared with upwards of 40 per cent. increase in rates under the ten-cent fare, it is apparent that the company would not lose 5 per cent. under the schedule permitted by the Board and that the estimate of 1,665,000 passengers shown on page 7 of the Board's report is based on facts. It is not necessary in order to support the Board's finding in this respect to consider the years 1913, 1914 and 1915.

As a further indication that the percentage of increase adopted is consistent with present conditions, it may be stated that the number of passengers transported in the first seven months of 1919 was 882,601 and the number transported in the same period of 1921 aggregated 991,045, an increase for the two years of 12.3 per cent., or a yearly compound increase of 6 per cent. as compared with an increase of 3.1 per cent. indicated by yearly totals. In other words, the first seven months of 1921 indicate that the percentage increase is larger than those indicated by the yearly increases for 1917 to

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New Jersey and Pennsylvania Traction Co.—Increase in Rates.

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1919. There would appear to be no good reason to assume that the Board erred in the figures taken.

Another alleged error is that the Board's computations were based upon the allowance of an 8-cent flat fare to the company when as a matter of fact the Board allowed but an 8-cent base with four tickets for 30 cents. The actual result as estimated by the company will be that it will receive between \$5,000 and \$6,000 less than the flat 8-cent fare would bring. The Board did not err in this respect. It stated in its report that the situation with regard to this company was somewhat different from that of other utilities because it had as to part of its line, according to the reports and records on file, entered into a competitive field which was but sparsely populated between the cities of Trenton and Princeton. The result is that there are two lines for a greater portion of the territory between Trenton and Princeton supplying the needs of a population which could be well met by one line. If a railway company sees fit to enter into a competitive field in a sparsely populated district, it must be assumed that it has considered the risk of competitive conditions. It cannot expect a small population to support two competitive utilities yielding each the same rate of fare or return on property which would be allowed if only one of them were in existence. Furthermore, when this company projected this line between Trenton and Princeton, its route was divided into two zones of 5 cents each, enabling the rider to go from Trenton to Princeton for 10 cents. It has obtained increases in fare from time to time so that with the increase just made by this Board (the insufficiency of which is alleged upon this rehearing) the company will now receive 32 cents for a ride between Trenton and Princeton from those who do not secure tickets and 30 cents from those who do secure tickets—that is to say at least 200 per cent. more than it proposed to charge the people when it was projected and which it did charge for several years after its construction. The competing company for the same trip from Trenton to Princeton receives but 24 cents.

Even if the claims of the company on this application for a rehearing were well founded, the deficit which it says would result through the alleged error would be approximately \$6,000. It appears, however, that the company has effected a reduction in wages

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West Jersey and Seashore Railroad Co.—Discontinue Agents.

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amounting to \$6,000 a year. The Board was not aware of this when it filed its report. As a matter of fact, therefore, even if the contention of the company that the Board erred were true, namely, that the Board allowed \$6,000 less than was intended, this amount is offset by the saving in wages.

The Board sees no reason to modify the order and the application is denied.

Dated October 6th, 1921.

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No. 931.

IN THE MATTER OF THE APPLICATION OF THE WEST JERSEY AND SEASHORE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT AVALON, AND,

APPLICATION OF THE WEST JERSEY AND SEASHORE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT PEERMONT FROM OCTOBER 1ST TO JUNE 1ST.

As the necessity for an agent is apparent at Avalon and Peermont to afford required stational convenience during the period that business warrants, the Board, under present conditions, will approve of an agent to be on duty from May 1st to November 1st; also that stations be kept open and maintained for the convenience of passengers during remaining months of the year.

*George A. Bourgeois*, for the Company.

*Louis B. Runk*, for the Protestants.

This matter comes to the Board upon application of the West Jersey and Seashore Railroad Company for permission to discontinue the maintenance of an agent at Avalon Station throughout the year; also to discontinue agency at Peermont excepting the months of July, August and September. It is proposed to handle freight business at Avalon Station from the Peermont Station during said months; and for remaining months of the year freight business at both stations to be under the jurisdiction of the agent at Stone Harbor.

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West Jersey and Seashore Railroad Co.—Discontinue Agents.

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Peermont and Avalon are located in the Borough of Avalon, and it was agreed at the hearing held at Atlantic City June 6th, 1921, to consolidate the cases as testimony covering both was similar in character.

Permission for proposed changes is requested under section 20 of Chapter 195, Laws of 1911, viz.:

“No railroad company shall, without first obtaining the approval of the Board, abandon any railroad station or stop the sale of passenger tickets, or cease to maintain an agent to receive and discharge freight at any station, now or hereafter established in this state, at which passenger tickets are now or hereafter may be regularly sold, or at which such agent is now or may hereafter be maintained.”

Avalon and Peermont stations are on the Stone Harbor Branch of the West Jersey and Seashore Railroad, and being located on the shore, during the summer months considerable traffic is handled at said points. The populated sections of the borough are in the vicinity of the station sites. A platform is located at 21st Street, midway between the stations, and stops are made by excursion trains at this point, being more convenient for handling the traffic.

Statements submitted of revenue, both passenger and freight, inbound and outbound, show that the heaviest business moves during the months of May, June, July, August and September, and the volume of business would appear to warrant maintaining adequate station facilities for the proper and expeditious handling of traffic, express, freight and baggage, during the months of heavy travel.

From brief submitted by the representative of the borough, communications from interested parties, also testimony produced at the hearing, it appearing that if arrangements could be made to maintain agents at Avalon and Peermont during a portion of the year, such arrangement would be satisfactory. As the necessity for an agent is apparent at Avalon and Peermont, to afford required station conveniences during the period that business warrants, the Board under present conditions will approve of an arrangement requiring an agent to be on duty from May 1st to November 1st, also that stations be kept open and maintained for the convenience of passengers during remaining months of the year.

Dated October 20th, 1921.

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City of Newark—Change in Standard for Gas.

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**No. 932.**

IN THE MATTER OF APPLICATION OF THE CITY OF NEWARK FOR A  
CHANGE IN THE STANDARD FOR GAS.

1. The Board repeats what was said by the former Board in 1920 after an exhaustive investigation made by it at that time that the testimony shows that the present rate of consumption of gas oil and the conservation of the fuel supply made a change in the calorific standard at that time desirable.

2. The conditions referred to by the Board at that time continue and will continue in the judgment of this Board. The reasons given by the Board in 1920 for the fixing of the calorific standard at 525 B. t. u. are as applicable today as they were a year ago.

*E. W. Wakelee, E. A. Armstrong and G. H. Blake*, for Public Service Gas Company.

*Jerome T. Congleton and J. G. Wolber*, for the City of Newark.

*George L. Record*, for the City of Jersey City.

*Benjamin Natal*, for the City of Camden.

*William A. Kavanagh*, for the City of Hoboken.

*Joseph T. Hague*, for the City of Elizabeth.

*A. O. Müller*, for the City of Passaic.

*William P. Hurley*, for the Town of Nutley.

*Welcome W. Bender*, for the Chamber of Commerce of Elizabeth.

*F. R. Cutcheon*, for the Consolidated Gas Company.

*S. J. Franklin*, for the Cumberland County Gas Company.

*H. S. Schutt*, for the Atlantic City Gas Company.

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City of Newark—Change in Standard for Gas.

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*William Wherry, Jr.*, for the New Jersey Gas Association.

*Dr. W. G. Hanrahan*, for Rent Payers' Association of Essex County and Federation Improvement Associations.

*James W. Howard*, on his own behalf.

The Board gave notice of its intention to investigate the rates charged for gas by the Public Service Gas Company and set the first hearing in the matter for August 3d, 1921. The case was called upon that date and the Board's counsel proceeded to introduce testimony when the corporation counsel of the City of Newark gave notice that that city demanded an increase in the calorific standard of gas. He was given permission to file a petition with the Board for that purpose. There was thus injected into the proceeding by the City of Newark a question which had to be decided before the Board's investigation into the rates could proceed, it being impossible to fix a price for gas until the Board should fix the standard for gas under Newark's petition. The rule fixing the standard for gas being applicable to all gas companies in the state general notice of hearing was given, and the gas companies were represented. Since August 3d, therefore, the Board has been taking testimony on the question raised by Newark's petition. The burden of proof was upon the cities of Newark and Jersey City and one or two other municipalities which followed the lead of the City of Newark in this matter. The witness presented by the City of Newark, Mr. Francisco, who is employed by that city and is in charge of its municipal gas bureau, testified that he believed that the standard of 525 British thermal units (the present standard) was the best one. He did not favor an increase in the standard. Notwithstanding the testimony of Mr. Francisco, the case proceeded. The Board requested the United States Bureau of Standards of Gas at Washington to send a representative to the hearing and also requested the attendance of a representative of the gas department of the Public Utilities Commission of Massachusetts. They attended and gave testimony. This was done because representatives of these bodies had, upon a similar request, testified before the Board of Public Utility Commissioners of this state in 1920, when the ques-

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City of Newark—Change in Standard for Gas.

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tion of change in the gas standard first came before the Board for determination. The Public Service Gas Company and the other gas companies called numerous expert witnesses as to the best standard of gas from the standpoint of economy of (1) natural resources, (2) cost of manufacture, (3) cost of the consumer. The testimony was overwhelmingly opposed to an increase in the standard. The Board repeats what was said by the former Board in 1920 after an exhaustive investigation made by it at that time, that the testimony shows that the present rate of consumption of gas oil and the conservation of the fuel supply made a change in the calorific standard at that time desirable. The conditions referred to by the Board at that time continue and will continue in the judgment of this Board. The reasons given by the Board in 1920 for the fixing of the calorific standard at 525 B. t. u. are as applicable today as they were a year ago. We do not, however, express any opinion at this time as to the claim of the companies that the lower standard of gas, namely, 525 B. t. u. gas can, because of its uniform value, be used with such greater efficiency that any increase in quantity of gas consumed by the customer would be offset by such increase in efficiency. That is a matter which will be more fully investigated in the gas rate case which the Board, having now disposed of the standard case, is proceeding to hear.

Since the adoption of the 525 B. t. u. standard by the Board in 1920, complaints as to the service, the amount of gas consumed and the amount of bills rendered have been far more numerous than theretofore. We are led to conclude from the testimony that much of the trouble experienced by consumers was due to the failure to promptly adjust the consumers' appliances to the new standard fixed by the Board. There appears to be some misunderstanding in the interpretation of the Board's order which altered the old standard. In this (the old) standard the companies were required to supply gas with a monthly average total heating value of not less than 600 B. t. u. with a minimum which should not fall below 550 B. t. u. The rule as modified prescribes a minimum total heating value of 525 B. t. u. but does not refer to average value. The companies generally, except the Public Service Gas Company, have interpreted this as eliminating the average value from consideration. The Public Service Gas Company has assumed that to supply gas with an

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City of Newark—Change in Standard for Gas.

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average heating value of 525 B. t. u. would be a compliance with the rule.

If this company had been confronted by nothing but the action of the Board in modifying the rule and such action had not been related to a coincident proceeding in which its rates were fixed, its interpretation of the rule would seem to be unwarranted. It appears, however, that the rule as to the hearing standard was modified by an order of the old Board filed August 3d, 1920, and that on the following day a decision was filed fixing the company's rates. In fixing the rates, the operating expenses appear to have been estimated on the assumption that gas having an average heating value of 525 B. t. u. should be supplied, and determination of the rate was influenced by this assumption.

It does not appear that the gas supplied by the Public Service Gas Company compares unfavorably with that furnished by other companies, which confronted by the rule alone, have applied it in accordance with its apparent literal significance. The rule, however, should be free from any misunderstanding as to its meaning. As the Public Service Gas Company supplies the greater part of the gas consumed in the state and to now require it to change its interpretation of the rule might result in undesirable complications in the rate proceeding being conducted by the Board without corresponding advantage to its customers, it is deemed inadvisable to insist upon such change. In order, however, that there may not be a continued apparent conflict between the rule as worded and the practice of the company the Board will change the wording of the rule so that there will be no doubt if gas is supplied with a minimum daily average of 525 B. t. u. it will be in compliance therewith.

Dated November 4th, 1921.

ORDER.

The Board of Public Utility Commissioners having duly heard the application of the City of Newark for a change in the heating standard for gas, and having on the fourth day of November, nineteen hundred and twenty-one, made and filed a report which by reference thereto is made part hereof, the Board

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West Jersey and Seashore Railroad Co.—Discontinue Agent at Buena.

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HEREBY ORDERS that Rule IX of the rules fixed by the Board as establishing adequate and serviceable standards and just and reasonable regulations to be followed by utilities engaged in the production, sale and distribution of gas, adopted October seventeenth, one thousand nine hundred and eleven, and amended by an order of the Board filed August third, nineteen hundred and twenty, be further amended to read as follows:

“The company furnishing gas which, within a one-mile radius from the distribution center, gives a minimum daily average total heating value of 525 B. t. u. which shall not fall below a minimum of 515 B. t. u., may be considered as giving adequate service so far as the heating value of the gas is concerned.”

This order shall become effective December 1st, 1921.

Dated November 9th, 1921.

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No. 933.

IN THE MATTER OF THE APPLICATION OF THE WEST JERSEY AND  
SEASHORE RAILROAD COMPANY TO DISCONTINUE MAINTAINING  
AN AGENT AT BUENA.

The necessity for the presence of an agent or clerk for a portion of the day is manifest and arrangement should be made to have a representative at the station from eight A. M. until one-thirty P. M. daily excepting Sundays; also that the station be kept open during the hours it is at present open for the convenience of passengers.

*George A. Bourgeois*, for the Company.

*Charles Wray*, for the Protestants.

This application is made by the West Jersey and Seashore Railroad to discontinue the services of the agent at Buena, the company basing its request on the present necessity of reducing operating expenses.

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West Jersey and Seashore Railroad Co.—Discontinue Agent at Buena.

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Buena is located on the Electric Division between Newfield and Atlantic City, 3.4 miles north of Richland, and 1.2 miles south of Minotola. It is the center of a rural community and main highways through Buena lead to Philadelphia, Hammonton, Vineland, Atlantic City and other points. Within a short distance from the station are general stores and post office.

Statements of revenues, passenger and freight, submitted at the hearing show for the year 1919 outgoing freight revenue was \$253.85, inbound \$1,889.86, passenger revenue \$1,569.64; total freight and passenger revenue \$3,713.35. For 1920 outbound revenue was \$418.18, inbound \$4,867.94, passenger revenue \$1,571.67; total freight and passenger revenue \$6,857.79. The increase of revenue in 1920 over 1919 was due to an exceptional movement of materials in the month of November, 1920, for use in connection with road construction at Buena. The freight and passenger revenue for the first four months of 1921 was \$1,747.26, representing a probable revenue of approximately \$5,000 for 1921. The agent's salary is \$1,519 per annum. Basing revenue on \$5,000 per year, the expenses of maintaining the agent is approximately 30 per cent. of the total revenue.

While the reasonableness of the company's desire to reduce operating expenses is recognized, the discontinuance of the agent would undoubtedly result in inconveniencing shippers and receivers of freight and express to an extent that would not be justified considering the volume of business. The necessity for the presence of an agent or clerk for a portion of the day is manifest and arrangement should be made to have a representative at the station from 8 A. M. until 1.30 P. M. daily, excepting Sundays; also that the station be kept open during the hours it is at present open for the convenience of passengers.

If the company will arrange to have a representative at the station for the transaction of necessary business from 8 A. M. until 1.30 P. M. and keep the station open covering hours now in effect, the Board will approve such an arrangement in lieu of agency now effective.

Dated November 4th, 1921.

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West Jersey and Seashore Railroad Co.—Discontinue Agent at Forest Grove.

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**No. 934.****IN THE MATTER OF THE APPLICATION OF THE WEST JERSEY AND  
SEASHORE RAILROAD COMPANY TO DISCONTINUE MAINTAINING  
AN AGENT AT FOREST GROVE.**

As the expense of maintaining the agency at Forest Grove represents so large a percentage of the total revenue, if the company is to be permitted to decrease operating expenses reductions must be made in items least affecting the general operations of the property. For the present the company should be permitted to discontinue the services of the agent, and if future conditions change to the extent of warranting the re-establishment of an agent the matter will be given further consideration.

*George A. Bourgeois*, for the Company.

*Joseph Little and Charles H. Lincoln*, for the Protestants.

The application of the West Jersey and Seashore Railroad Company states that permission is requested to discontinue maintaining an agent at Forest Grove as the revenue from passenger and freight business is disproportionate with the cost and expense of the agency.

Forest Grove is located on the Electric Division between Newfield and Atlantic City, 2.9 miles south of Newfield and 1.6 miles north of Minotola. Statements of revenues, passenger and freight, submitted at the hearing show for year 1919 outbound freight revenue was \$4.66, inbound \$1,615.59, passenger revenue \$2,254.16; total freight and passenger revenue \$3,874.41. For 1920 outbound freight revenue was \$106.17, inbound \$1,351.23, passenger revenue \$2,260.40; total freight and passenger revenue \$3,717.80. From September, 1920, to May, 1921, express revenue was \$549.44, averaging approximately \$70 per month throughout the year. The salary of the agent is \$1,414.62 per annum, and expense of maintaining the agency is approximately 40 per cent. of the total revenue.

As a means of reducing operating expenses railroad companies are discontinuing agents at stations where the expense of maintaining an agency is out of proportion with the revenue. The cost of the Forest Grove Agency being approximately 40 per cent. of the total yearly

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Pennsylvania Railroad Co.--Discontinue Agent at Allaire.

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revenue, it does not seem unreasonable, under existing conditions, to permit the elimination of the services of the agent. Agents' salaries are fixed by the Federal Wage Board and reductions are not permitted without the approval of said Board.

It is proposed to place Forest Grove under the supervision of the agent at Minotola, who will perform all services in connection with the handling of freight. The station will be kept open for the convenience of patrons and provision made for a caretaker to maintain the building properly cleaned, heated and lighted. The scheduled train stops will be continued, and fares can be paid to conductor on train without additional excess.

As the expense of maintaining the agency at Forest Grove represents so large a percentage of the total revenue, if the company is to be permitted to decrease operating expenses, reductions must be made in items least affecting the general operations of the property. The Board therefore concludes that for the present the company should be permitted to discontinue the services of the agent, and if future conditions change to the extent of warranting the re-establishment of an agent, the matter will be given further consideration.

Dated November 4th, 1921.

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**No. 935.**

**IN THE MATTER OF APPLICATION OF THE PENNSYLVANIA RAILROAD  
COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT  
ALLAIRE.**

The amount of business, both passenger and freight, is small and as the salary required to be paid the agent at Allaire is about \$1,000 per year, more than twice the amount of the total revenue for the year 1920-21, it does not seem reasonable that the company should be required to maintain an agent under existing conditions.

*W. Holt Appar*, for the petitioner.

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Pennsylvania Railroad Co.--Discontinue Agent at Allaire.

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This matter is before the Board upon application of the Pennsylvania Railroad Company to discontinue the services of an agent at Allaire. It is claimed that as the expenses for maintaining the agency are in excess of revenue, the amount of business does not warrant maintaining the services of an agent.

Allaire is located on the Trenton Division, 1.9 miles west of Allaire, and 3.1 miles east of Farmingdale. The country in the vicinity of Allaire Station is sparsely populated and within a mile and a half of the station there are approximately 150 people. Allaire is a block station in connection with the operating of trains and in addition to agent's duties as agent, he acts also as operator of block signals. It is intended in the event agent is discontinued at Allaire to make operating block between Allenwood and Farmingdale.

The agent's salary is about \$1,600 per year, and total expenses from September 1st, 1920, to August 31st, 1921, were \$1,837.50. The total receipts for the year 1916 were \$2,766.93; for 1918, \$1,071.66, and from September 1st, 1920, to August 31st, 1921, \$703.05. The community is not as active as in former years, and revenues have considerably decreased on account of removal from the community of industries and consequent reduction in passenger business.

The discontinuance of agencies at stations where business has decreased is considered by the company a reasonable means of reducing operating expenses in the general program of economy. Under provisions of the existing federal requirements the salary of agents is fixed by the Federal Wage Board and present rate will be continued and cannot be reduced without approval of said Board.

The company proposes to keep the station clean, warm and lighted for the convenience of passengers. Tickets will not be sold, but they can be purchased from conductor on train without payment of any excess. Allaire will be made a prepaid station; outgoing freight shipments, billed collect; incoming shipments, prepaid. The amount of business, both passenger and freight, is small, and as the salary required to be paid to the agent at Allaire is about \$1,600 per year, more than twice the amount of the total revenue for the year 1920-1921, it does not seem reasonable that the company should be required to maintain an agent under existing conditions. The Board will therefore permit discontinuing the station agency at Allaire.

Dated November 4th, 1921.

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Blackwood Water Co.—Increase in Rates.

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**No. 936.****IN THE MATTER OF THE APPLICATION OF THE BLACKWOOD WATER  
COMPANY FOR INCREASE IN RATES.**

In view of an agreement between a water company and its customers that increased rates might be charged, provided certain improvements were made in the company's plant, increased rates were authorized to become effective following completion of the improvements agreed upon.

*Lewis Starr*, for the petitioner.

*Samuel P. Hagerman*, for the Township of Gloucester.

This matter was originally set for hearing at Camden on October 4th. At that time representatives of the company and of the township were present, but as it did not appear that proper notice had been given, the matter was postponed to a later date. The suggestion was also made to the company that a conference between the company and those representing its customers might result in some form of agreement. Such conference was held and the hearing was resumed on October 24th in the Court House in Camden, at which time several of the citizens appeared.

At the hearing counsel for the company stated that the suggested conference with representatives of the consumers had been held and that they had agreed, subject to confirmation by the Board, that a new schedule of rates might be made effective in Blackwood similar to a schedule which had been recently approved by the Board for the company supplying Laurel Springs. As these two communities are somewhat similar in character and located near one another, it appeared desirable that rates be fairly uniform, especially as the operating conditions appeared to be somewhat similar in connection with the two companies. The Laurel Springs schedule, however, omitted certain items, four in number, which it appeared desirable should be incorporated in the schedule of the Blackwood Water Company. They are as follows:

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**Blackwood Water Co.—Increase in Rates.**


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Nozzle suitable for hose connection spigots .....	\$10.00
Fountains in stores .....	15.00
Knitting mill, flat rate of .....	20.00
Foundry, flat rate of .....	35.00

The rates agreed upon are on a fixture rate basis and it was further agreed that if consumers are supplied through meters the rates will be the same as in Laurel Springs, that is, with a minimum charge of twelve dollars and the basic rate commencing at thirty cents per thousand gallons.

The property of this company has been appraised by an engineer for the company and this appraisal was checked by the Board's engineers. The valuation of the property as a basis for rates found by the water company's engineer was \$40,633.10. This is inclusive of reasonable allowances for organization and legal expenses, working capital, and an allowance of two thousand dollars for the cost or value of the developed business. Depreciation has been deducted in the full amount of \$7,154.97, so that the value claimed by the company as a basis for rates is the full depreciated present value of the property. A study of the unit prices used by the company's engineer shows that pre-war prices have governed throughout with property built during the last few years included at its cost, so that no claim has been set up based upon wartime prices.

The earnings and expenses of the past three calendar years show that the company had available as a return on investment the following:

1918 .....	\$708.00
1919 .....	958.67
1920 .....	388.50

This net revenue is the amount available after paying wages for operation, maintenance and repairs, taxes and insurance, and nothing has been allowed for administration, superintendence, nor for annual depreciation. It will thus be seen that the amounts set out as return do not constitute net income. However, assuming that the net revenue was available as a return on investment, this would, in the year 1918, have constituted six per cent. of \$11,800; in the year 1919, six per cent. of \$15,977; and in the year 1920, six per cent. of \$6,475. The amount on which this net revenue would have given six per cent. is

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 Blackwood Water Co.—Increase in Rates.
 

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so far below the rate base claimed by the company that the matter of valuation does not enter into the solution of this problem at all.

The company has at various times in the last few years had a number of bills for extraordinary repairs which should not be taken as corresponding to the average for such items. Furthermore, the company has in view the necessity of making further extraordinary repairs. On this account an estimate has been made of the probable average operating expenses on a normal basis. This is as follows:

Estimated operating expenses .....	\$1,130
Return at 5 per cent. on \$30,000 .....	1,500
Depreciation, one-half company's estimate .....	240
Total .....	\$2,870

Company's estimate for corresponding items is..... \$4,301

The rate base of \$30,000 is not taken with any view of criticising the company's claim, but merely to show the fact that the value of the property has very little to do with the determination of the rates which might be reasonable to charge. The allowance for depreciation is taken also at a minimum. The estimated gross revenues from the proposed rates is \$2,884 and in the above calculations it must be noted that no allowances have been made for management, superintendence, legal, engineering or any other special items other than the mere operating labor, fuel, average repairs, taxes and insurance.

Counsel for the township stated that at the conference between the representatives of the company and the consumers, the company had agreed to make certain improvements and repairs to the system, so as to insure first-class service and first-class quality and the citizens had made the execution of this work a condition precedent to the rates going into effect. The Board announced that in view of the agreement reached the detailed testimony need not be submitted, especially as the company had agreed and so stated at the hearing that it would make the necessary changes to bring about the proper purification of the water and to install proper equipment that would give adequate service. The improvements referred to were in connection with the installation of a gasoline engine and other improvements. Part of the power for pumping water is supplied by water power. During the past summer the extreme drought has caused a lack of water and

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**Blackwood Water Co.—Increase in Rates.**

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there has been insufficient water to properly operate the turbine wheel. For that reason there has been a scarcity of water which has been corrected by means of a gasoline engine direct connected to a pump, so that in case of low water the company will be supplied entirely by gasoline.

For some reason the filter plant has not been operated continuously for the removal of iron or other objectionable elements in the water. This is to be put in operating condition so as to provide for continuous operation. Complaint was also made of water hammer in the mains, this being especially noticeable in houses along this line. This could be corrected by the installation of an air chamber upon the discharge line and plans for such installation have already been made. The following improvements must be made and completed and in satisfactory operating condition before January 1st. (1) The filtration plant must be put in proper shape and operating condition and arranged so as to provide for continuous operation. (2) Additional power must be installed to operate the pumping machinery. (3) An air chamber must be installed to take the water hammer now noticeable and causing considerable annoyance to some of the customers. (4) Fire hydrants must be flushed at frequent intervals in accordance with the rules of the Board which do not require the flushing of hydrants at any particular time, but do require companies to adopt suitable and satisfactory programs in accordance with which such flushing is to be done. (5) The riser carrying water up to the tower must be covered in order to prevent freezing and bursting as occurred in recent years, notably in the early winter of 1918. (6) A wire screen is to be installed over the top of the tank so as to prevent birds falling into the tank.

**CONCLUSIONS.**

In view of the agreement reached between the company and its customers, the Board will allow to become effective January 1st, 1922, the schedule of rates given below, this being, with the exception of the four special rates named above, the same schedule as was recently authorized for Laurel Springs. This is contingent upon the completion in the period before January 1st of the six items named

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Clementon Spring Water Co.—New Schedule of Rates.

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above. Inspection will be made of this property as soon as the company has notified the Board that the work has been completed, this inspection to be made not later than December 24th and if the work is completed by that time the rates may become effective for the quarter beginning January 1st, 1922. Notice to this effect should be sent out to the customers of the company by December 12th. The new rates referred to are as follows:

Fire hydrants .....	\$25.00 per annum.
Private dwellings:	
Sink in kitchen .....	8.50 per annum.
Bath tub .....	5.00 per annum.
Water closet .....	3.75 per annum.
Pave wash .....	6.25 per annum.
Wash basin or additional spigot .....	2.00 per annum.
Hydrant .....	6.00 per annum.
Meters, personal rate .....	.30 per M. gals.
Minimum charge for private dwellings ....	15.00 per annum.
Nozzle suitable for hose connection spigots..	10.00 per annum.
Fountains in stores .....	15.00 per annum.
Knitting mill, flat rate of.....	20.00 per annum.
Foundry, flat rate of.....	35.00 per annum.

Dated November 9th, 1921.

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### No. 937.

#### IN THE MATTER OF THE APPLICATION OF THE CLEMENTON SPRING WATER COMPANY FOR APPROVAL OF A NEW SCHEDULE OF RATES.

1. The appraised value claimed of petitioner's property continued by actual additions to book cost to September 30th, 1921, is \$73,291.

2. The appraisal shows \$4,932 for value of services purporting to be installed by the company. The company's annual report shows 406 service pipes in use, of which 400 were installed at the expense of consumers.

3. The appraisal, corrected for the item of services, may be taken in round figures at \$69,000 depreciated value, as contrasted with the investment costs (depreciated by the amount of the reserve for depreciation which has been accumulated by the company), in round figures \$57,600, the figures in both cases being of September 30th, 1921.

4. The company is permitted to put into effect increased rates submitted, it appearing that the net revenue will equal 5.42 per cent. return on the investment of \$57,600 or 4.52 per cent. on the modified appraisal of \$69,000.

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Clementon Spring Water Co.—New Schedule of Rates.

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*John D. McMullin*, for the Petitioner.

The petitioner alleges that it has suffered the following losses from operation alone: 1918, \$2,142.12; 1919, \$556.96; 1920, \$767.84, while it estimates its loss for 1921 from operation at approximately \$1,500; that no dividends have been paid on invested capital; that the appraised value of the petitioner's property is \$70,320.40 (as of June 1st, 1921); that the capital stock issued and outstanding is \$33,350; that it has no funded debt but has notes which at the present time aggregate \$13,300, the proceeds of which have been used for extensions and to pay operating deficits; that from the year 1916 to the present time there has been a steady advance in the costs of operation while its rates have remained fixed and that it is impossible for the petitioner to continue to render service at the rates at which it has heretofore and is now charging.

The present and proposed schedule of rates, shown in parallel columns, are as follows:

	Exhibit B Proposed Schedule	Exhibit A Present Schedule
Flat Rate Service.	Annual Rates.	Annual Rates.
Sink in kitchen or yard .....	\$10.00 ea.	\$7.00 (2)
Toilet .....	4.00	3.00
Bathtub .....	4.00	3.00 (2)
Washstand .....	2.00	1.50 (2)
Laundry tub .....	2.00	1.50 (2)
Extra hydrant or sink.....	6.00	5.00
Shower bath .....	} Metered rates	
Public drinking fountain.....		
Railroad connections .....		
Minimum bill .....	12.00	
Flat rates payable.....	Half yearly in advance. Apl. 1 & Oct 1.	
Metered Service.		
First 25,000 gallons per year.....	\$15.00	0.40c. per 1,000 gals.
Next 75,000 gallons per 1,000 gals.....	0.40	0.35c. per 1,000 gals.
Next 150,000 gallons per 1,000 gals.....	0.35	0.35c. per 1,000 gals.
Next 250,000 gallons per 1,000 gals.....	0.30	0.25c. per 1,000 gals.
Next 500,000 gallons per 1,000 gals.....	0.25	0.20c. per 1,000 for excess
Excess over 500,000 (1) gallons per 1,000 gals...	0.20	
Fire Service.		
Fire hydrants each year.....	\$30.00	

(1) Preceding blocks aggregate 1,000,000 and not 500,000 M. cu. ft.

(2) Hot and cold water.

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Clementon Spring Water Co.—New Schedule of Rates.

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Notice, a copy of which was attached to the petition, has been advertised in two papers circulating in the Borough of Clementon.

The effective date of the proposed schedule of rates was suspended until January 27th, 1922, pending hearing and decision by the Board.

VALUE OF THE PETITIONER'S PROPERTY.

The company was organized and began the service of water November 11th, 1909, some few months before the organization of this Board. The greater part of its plant and property has therefore been installed since the creation of this Board.

*Book Value (cents omitted).* The annual report of the petitioner for the year ending December 31st, 1920, states that the fixed capital as of that date approximated \$54,496 and Exhibit P-1 indicates that additions from January 1st, 1920, to September 30th, 1921, have aggregated \$15,265. The company's annual report for 1920 shows that \$11,043 of the latter amount was included in the fixed capital as of December 31st, 1920. This, by difference, leaves additions from January 1st, 1921, to September 30th, 1921, in the amount of \$4,222, which, added to the \$54,496, makes a total book value of fixed capital as of September 30th, 1921, amounting to \$58,718. Deducting from this the reserve for accrued depreciation amounting to \$2,647, leaves the depreciated value of fixed capital, according to the company's books, in the amount of \$56,071. Adding working capital as of December 31st, 1920, makes a total book value of the property based on book costs of \$57,587.

*Appraised Value.* The appraised value as of December 31st, 1919, is continued by book additions to September 30th, 1921 (Exhibit P-1). The company's expert engineer submitted a detailed appraisal of the property of the company as of December 31st, 1919. Instead of revising the inventory and repricing same, as of December 30th, 1921, he submitted the original appraisal in some detail and then added thereto the book additions for the period from January 1st, 1920, to September 30th, 1921. These figures are reassembled in Table I, in which the figures are rearranged to correspond with the order in which they would be given in the company's annual report.

## Clementon Spring Water Co.—New Schedule of Rates.

TABLE I.

APPRAISED VALUE AS OF DECEMBER 31ST, 1919, CONTINUED BY ACTUAL ADDITIONS, AT BOOK COST, TO SEPTEMBER 30TH, 1921.

	Appraised as of Dec. 31st, 1919 (c. om'td.)	Additions 1-1-20 to 5-31-21	Additions undistributed 6-1-21 to 9-30-21	Total as of Sept. 30, 1921.
Real Estate .....	\$3,300	.....	.....	\$3,300
Artesian Wells and Connections.....	1,376	\$3,084	.....	4,460
Dam Headrace and Turbines.....	2,500	.....	.....	2,500
Buildings .....	6,250	.....	.....	6,250
Pumps and Appurtenances and Con- nections .....	5,842	132	.....	5,974
Standpipe and Connections.....	4,954	.....	.....	4,954
Distribution Mains and R. R. Crossings..	24,586	7,010	.....	31,596
Meters .....	.....	125	.....	125
Fire Hydrants, Valves, Boxes and Covers.	1,146	.....	.....	1,146
Services .....	4,932	1,718	.....	6,650
Tools and Equipment.....	648	80	.....	728
Engineering and Interest during Construc- tion .....	4,495	.....	.....	4,495
Unclassified Items .....	.....	145	\$2,971	3,116
<b>Tangible Fixed Capital.....</b>	<b>\$60,029</b>	<b>\$12,294</b>	<b>\$2,971</b>	<b>\$75,294</b>
<b>Intangible Fixed Capital.....</b>	<b>5,144</b>	<b>.....</b>	<b>.....</b>	<b>5,144</b>
<b>Total Fixed Capital.....</b>	<b>\$65,193</b>	<b>\$12,294</b>	<b>\$2,971</b>	<b>\$80,438</b>
<b>Accrued Depreciation to 12-31-19.....</b>	<b>8,717</b>	<b>.....</b>	<b>.....</b>	<b>8,717</b>
<b>Total Depreciated value claimed...</b>	<b>\$56,456</b>	<b>\$12,294</b>	<b>\$2,971</b>	<b>\$71,721</b>
<b>Working Capital .....</b>	<b>1,570</b>	<b>.....</b>	<b>.....</b>	<b>1,570</b>
<b>Rate Base claimed .....</b>	<b>\$58,026</b>	<b>\$12,294</b>	<b>\$2,971</b>	<b>\$73,291</b>
<b>Corrected figures about.....</b>	<b>\$53,500</b>	<b>.....</b>	<b>.....</b>	<b>\$68,800</b>

It will be noted that the rate base as claimed as of September 30th, 1921, is \$73,291. In the main, the appraisal seems to be prepared on a reasonable basis. It is not clear, however, with respect to the following two items, that the appraisal is entirely correct.

(a) In the appraisal as of December 31st, 1919, there is shown for the value of services purporting to be installed by the company, \$4,932, to which is added certain overhead and intangible value and

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Clementon Spring Water Co.—New Schedule of Rates.

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a certain amount of depreciation is deducted. The company's annual report for 1920, filed with this Board and verified under oath, indicates that as of January 1st, 1920, the company had 406 service pipes in use, of which the report states that 400 were installed at the expense of the consumers, which would leave six to have been installed at the expense of the utility. This would indicate that by proportion only \$61 should be included in the inventory and appraisal as of December 31st, 1919. If this be the true state of facts, it follows that a deduction of approximately \$4,050 depreciated value should be made. To include structural overheads and intangible values, predicated on the base cost, this may be taken at substantially \$4,500. This deduction is tentatively made on the last line of Table I. The company's expert was questioned with respect to these services and stated that he had only included such services as belonged to the company. It would seem that either the company's report is inaccurate or the expert assumed that all the services had been installed by the company.

(b) The accrued depreciation as shown in Exhibit P-1 and in Table I of this report is calculated to December 31st, 1919. Strictly speaking, about \$2,000 additional depreciation has accrued (according to the appraiser's table of depreciation) up to September 30th, 1921. This depreciation, according to the operating reports of the company, has not been earned and will not therefore be deducted from tangible value and added to intangible value of the property.

The appraisal, corrected for the item of services, may be taken in round figures at \$69,000 depreciated value as contrasted with the investment cost (depreciated by the amount of the reserve for depreciation which has been accumulated by the company), in round figures, \$57,600, the figures in each case being as of September 30th, 1921

#### OPERATING EXPENSES AND TAXES.

Exhibit P-1 gave the actual operating expenses for the calendar years 1918, 1919 and 1920, and for the year 1921 an estimated figure was shown based on actual figures for ten months and two months estimated. The figures for 1920 and 1921 shown on Exhibit P-1, together with the comparable figures as taken by the Board, are shown in Table II which follows:

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 Clementon Spring Water Co.—New Schedule of Rates.
 

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TABLE II.

OPERATING EXPENSES AND TAXES (CENTS OMITTED).

	1920 Actual.	1921 2 months Estimated.	Ensuing Year as Taken.
Pumping System Expenses.....	\$2,886	\$2,720	\$2,720
(a) Current maintenance and repairs.	726	750	750
(b) Amortization .....	562	1,150 (1)	585 (2)
General and miscellaneous.....	1,260	1,708	1,560
Total Operating Expenses .....	\$5,434	\$6,328	\$5,615
Taxes .....	464	515	515
Total Revenue Deductions.....	\$5,898	\$6,843	\$6,130

(1) Based on appraisal and life tables.

(2) Based on company's practice in 1920.

The Board in Table II fixes amortization in the same ratio as taken by the company in the last several years and fixes general and miscellaneous expenses substantially the same as shown on Exhibit P-1 with the exception of legal expenses estimated by the petitioner at \$200. While the company may spend \$200 for the year 1921, the past history of the company does not indicate this to be a normal amount and the Board will reduce this to an average amount and fix general and miscellaneous expenses at \$1,560. The resulting revenue deductions as taken by the Board are shown in Table II to aggregate \$6,130.

The company's expert estimated the requirements of the company for the year 1921 as follows (cents omitted):

Estimated operating expenses for 1921.....	\$5,613
Depreciation .....	1,150
Total revenue deductions .....	\$6,843
(also shown in Table II.)	
Interest on \$70,320 (as of June 1st, 1921) at 6 per cent..	4,219
Grand total revenue required in the amount of.....	\$11,062

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 Clementon Spring Water Co.—New Schedule of Rates.
 

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 RESULTS OF OPERATION UNDER THE PROPOSED SCHEDULE OF RATES AS  
 ESTIMATED BY THE BOARD.

The petitioner's expert estimated in Exhibit P-1 that the proposed schedule of rates would probably produce an annual revenue of \$9,157.50. This does not include any revenue from the excess produced by the minimum bill (which might amount to \$100 or \$200). Assuming the total revenue of \$9,250, the following tabulation will indicate the result of a year's operation on the basis hereinabove set forth.

Operating expenses and taxes estimated at.....	\$6,130
Net revenue for return on value.....	3,120
	<hr/>
Revenue as estimated above.....	\$9,250

The net revenue of \$3,120 is 5.42 per cent. return on the investment of \$57,600 or 4.52 per cent. on the modified appraisal value of \$69,000. In the opinion of the Board, this is not an unreasonable return on either base, especially in view of the fact that the company, as the testimony indicates, has never declared any dividend on its capital stock now amounting to \$33,300.

Attention is called to the fact that in the proposed schedule of metered rates the last block as recited in Exhibit B attached to the petition indicates that twenty cents per M. gallons is to be charged for all excess over 500,000 gallons per annum. This is clearly an error, in view of the fact that the preceding blocks aggregate a million gallons. The schedule should be amended in this respect.

## CONCLUSIONS.

The Board therefore finds and determines:

1. That the Board is satisfied that the company should be afforded relief by increased rates.
2. That the schedule of rates as proposed, after eliminating the error, in the last block of the metered rates, is just and reasonable and will therefore be permitted to become effective for all water service rendered on and after January 1st, 1922.

Dated November 16th, 1921.

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Raritan Valley Hydro-Electric Co., Inc.—Issuance of Preferred Stock.

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**No. 938.**

IN THE MATTER OF THE APPLICATION OF THE RARITAN VALLEY  
HYDRO-ELECTRIC COMPANY, INC., FOR THE APPROVAL OF THE  
ISSUANCE OF ITS PREFERRED STOCK TO THE AMOUNT OF \$25,000.

Application is made for approval of issuance of \$25,000 preferred stock. The value of the property is estimated at \$45,000. Issues of stock heretofore approved total \$18,000. There is outstanding a mortgage of \$6,500. Approval is given to the issuance of \$20,500 preferred stock at par.

*R. S. Hudspeth*, for the petitioner.

This application as filed on March 12th, 1921, requested the approval of the issuance of \$25,000 in preferred stock to capitalize construction work already completed and other construction work then in progress. Subsequent to the date of filing the petition, the work which was then in progress has been practically completed and an estimate has been made by the Board's engineers of the value of the property acquired by the company up to August 30th, 1921, including the bills payable as of that date.

This plant was constructed in part on the basis of cost of material and labor plus contractor's overhead and profit, and the total charge in this particular case from this method of construction, resulted in such a high cost that the Board has considered it necessary to grant this approval on the basis of an inventory of the property in place and a reasonable cost of construction as of the time the property was acquired. The contractor has accepted the estimate as made by the Board's engineers as representing the reasonable value of the services rendered by him and the petitioner has paid to the contractor the amount thus estimated in full settlement of his claims and has been entirely willing to accept the Board's judgment as to the amount of securities which may reasonably be issued.

The reasonable value of the property as of the date indicated has been estimated as \$45,000. This amount represents a reduction in the cost of this plant as originally charged of over \$7,000. This reduction was considered essential both on the basis of the reasonable cost of the

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**E. A. Ransom, Jr., vs. Public Service Railway Co.**

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plant as of the time it was constructed, which was during the latter part of 1920 and the first eight months of 1921, at which time both material and labor prices were relatively high, and due to the fact that the construction cost as originally charged appeared beyond a doubt to be in excess of the commercial value of the plant.

At the present time the generator capacity installed is 50 kilowatts and the available power of the water turbines installed is approximately 135 kilowatts. According to available data, the south branch of the Raritan River, with an eight foot fall at this location, can develop in an average year, with respect to rainfall, considerably more power than is now provided by the turbines installed. It therefore appears that this company can reduce its investment cost per kilowatt of output to a much lower figure than at present by a relatively small additional investment and with careful management can probably make a financial success of this enterprise.

The amount of securities previously approved is \$15,000 in preferred stock and \$3,000 in common stock, a total of \$18,000. There is also outstanding a real estate mortgage of \$6,500. These items deducted from the total cost new of \$45,000, leaves an amount uncapitalized as of August 30th, 1921, of \$20,500. Approval will accordingly be given to the issuance of this amount of preferred stock at par and an order will so issue.

Dated November 29th, 1921.

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**No. 939.**

**E. A. RANSOM, JR.,**

**vs.**

**PUBLIC SERVICE RAILWAY COMPANY.**

**Complaint is made of a change by the Public Service Railway Company of routing of cars in Jersey City, resulting in charge for transfer. Held:**

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E. A. Ransom, Jr., *vs.* Public Service Railway Co.

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1. If the company desires, in the interest of economy, to stop its Belt Line cars at the Summit Avenue Tube Station between 1:00 A. M. and 5 A. M. it may do so; but only on condition that it grant a free transfer to each passenger desiring to go south beyond the Tube Station to any other point on the line known as the Belt Line, and that it grant an additional transfer to such passenger upon payment of the regular transfer charge to the Montgomery and other lines at the transfer points, according to the practice in existence in that respect upon the said Belt Line prior to change complained of.

No appearance for the complainant.

*G. H. Blake*, for the respondent.

A complaint has been made by Mr. E. A. Ransom, Jr., Jersey City, N. J., to the effect that the Public Service Railway Company some time ago discontinued the Belt Line trolley service in Jersey City after 1:00 A. M., substituting for the continuous ride from the Pennsylvania Railroad Terminal a jigger service by Newark Avenue to Summit Tube Station, where a change must be made to the Jackson cars and for Lafayette passengers a further change must be made from the Newark car at Newark Avenue, the Newarks cars being run after 1:00 A. M. on the junction through Lafayette instead of down Grand Street. The complainant further states that on one occasion he boarded a Newark Avenue car at Newark Avenue and Monmouth Street, desiring to go to Monticello Avenue and Astor Place. He paid a seven-cent fare (the seven-cent fare was in effect at that time) and asked for a continuous transfer but was compelled to pay two cents for a transfer at the Summit Tube Station where he was required to take a Jackson car. The result of this arrangement cost him nine cents for a ride, which in the daytime would cost seven cents.

The facts as stated by the complainant are correct.

Under the new rate of fare, however, as recently allowed the Public Service Railway Company by the U. S. Federal Court, the effect of the change would be from one-half cent to one cent additional cost to the rider, according to whether or not he used a token or paid a straight eight-cent fare, the new fare being eight cents or four tokens for thirty cents, with one cent charge for a transfer.

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E. A. Ransom, Jr., vs. Public Service Railway Co.

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In addition to the situation complained of by the complainant, it should be pointed out that as a result of the rerouting of the Newark Line as referred to in the complaint and the curtailment of the route of the Belt Line after 1:00 A. M., the following condition has developed: a passenger boarding a Belt Line car, outbound, on the Newark Avenue hill, and vicinity, and desiring to go to a point on the Montgomery Line north of Bergen Avenue, would be compelled to transfer at the Tube Station to the Jackson Line and then pay an additional fare on the Montgomery Line at Montgomery Street and Bergen Avenue if he desired to take that line, a second transfer not being issued under these conditions.

The Public Service Railway Company has given as a reason for making this change the economy resulting therefrom. The company also claims that the traffic on the Belt Line after 1:00 A. M. is exceedingly light and the number of persons inconvenienced by the change is therefore very small.

The fact remains nevertheless that on what is known as the Belt Line, on which only a single fare has been charged for very many years (probably a half a century) from any point on that line to any other point, the passengers, under the change complained of, are discharged from the Belt Line car during the hours indicated before its completion of the long established trip, and compelled to take another car and pay an additional fare or transfer charge to complete his journey. If the company desires, in the interest of economy, to stop its Belt Line cars at the Summit Avenue Tube Station between 1:00 A. M. and 5:00 A. M. it may do so but only on condition that it grant a free transfer to each passenger desiring to go south beyond the Tube Station to any other point on the line known as the Belt Line and that it grant an additional transfer to such passenger upon the payment of the regular transfer charge to the Montgomery and other lines at the transfer points according to the practice in existence in that respect upon the said Belt Line prior to the change complained of.

Dated December 1st, 1921.

Town of West Hoboken *vs.* Public Service Railway Co.

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**No. 940.**

TOWN OF WEST HOBOKEN

VS.

PUBLIC SERVICE RAILWAY COMPANY.

Complaint is made of a change by the Public Service Railway Company of routing of cars on its West Hoboken line resulting in a charge for transfer.  
**Held:**

1. The company should be permitted to make the change, but only upon condition that it will grant free transfers to passengers desiring to transfer for points beyond Courtland Street on such cars of other lines of the company as proceed north of that street on Summit Avenue.

*Edward C. Gunther*, for the complainant.

*G. H. Blake*, for the respondent.

A complaint has been made from the Town of West Hoboken, signed by F. J. Keller, Town Clerk, embodying a resolution passed by the Board of Council on August 10th, 1921, which reads as follows:

“WHEREAS, It is the present practice of the Public Service to run cars marked West Hoboken through, namely: to the end of the West Hoboken line during the rush hours; and

WHEREAS, It is their present practice to only run the cars to Courtland Street and Summit Avenue, during the non-rush hours, and if a passenger desires to go further they are demanded to pay two cents additional for a transfer in order to reach their destination; therefore, be it

*Resolved*, that this Board of Council go on record protesting against the present system, and insist that the Public Service run the cars marked West Hoboken through to the end of their line, or give a transfer without additional compensation to the riding public.”

The West Hoboken line of the Public Service Railway Company was formerly operated from the Fourteenth Street Terminal, in

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**Town of West Hoboken vs. Public Service Railway Co.**

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Hoboken, via Fourteenth Street, Willow Avenue, Fifteenth Street, and thence over private right-of-way (up the Hillside) to Palisade Avenue, thence via Palisade Avenue to Courtland Street to Summit Avenue, thence on Summit Avenue to Highpoint Avenue, thence on Highpoint Avenue to Clinton Avenue, thence on Clinton Avenue to Hackensack Plank Road, and thence on Hackensack Plank Road to Summit Avenue, returning via Summit Avenue, thence to Paterson Plank Road, thence to Paterson Avenue, thence to Palisade Avenue, continuing down via the Hillside over private right-of-way to Hoboken.

The cars of the Summit Line of the Public Service Railway Company parallel the cars of the West Hoboken line on Summit Avenue from the Hackensack Plank Road to Paterson Plank Road and Paterson Avenue. The Summit line, however, operates to the Delaware and Lackawanna Ferries, in Hoboken, via the elevated structure from Palisade Station.

On or about March 8th, 1921, the Public Service Railway Company changed the route of the West Hoboken line so that it would terminate at Courtland Street and Summit Avenue, but establishing during the rush hours a superimposed service on the West Hoboken line over its former existing route, that is, from the Hackensack Plank Road to Fourteenth Street, Hoboken.

The Public Service Railway Company introduced testimony showing that there is a saving of over two miles per round trip of every car that operates to Courtland Street and Summit Avenue and that other economies are effected.

The Board is of the opinion that the railway company should be permitted to make the change and to make Courtland Street the terminus on the line in question but only upon condition that it will grant free transfers to passengers desiring to transfer for points beyond Courtland Street on such cars of other lines of the company as proceed north of that street on Summit Avenue.

Dated December 1st, 1921.

**Hammonton and Egg Harbor City Gas Co.—Approval of Mortgage.**

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**No. 941.**

IN THE MATTER OF THE APPLICATION OF THE HAMMONTON AND EGG HARBOR CITY GAS COMPANY FOR APPROVAL OF MORTGAGE AND ISSUE OF SEVENTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$73,500) BONDS THEREUNDER.

*B. B. Hutchinson*, for the petitioner.

It appears that the proposed mortgage and issue of bonds thereunder are designed to supersede an indebtedness on the books of the company to one of its stockholders. It does not appear that the same security is being offered to other creditors. The Board is unable to see any justification for securing one class of creditors as against the other creditors. The application, therefore, is DENIED.

Dated December 1st, 1921.

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**No. 942.**

IN RE CHARGE FOR WATER SUPPLIED TO SOMERS POINT PUBLIC SCHOOLS BY ATLANTIC COUNTY WATER COMPANY.

1. The complainant denies the right of the respondent to charge for water supplied because of an ordinance requiring the company to furnish water free to the public schools.

2. The power of the Board to fix rates despite the provisions of ordinances specifying rates has been sustained by our courts in a long line of cases.

3. The company is being paid for all water supplied to the schools in the other municipalities served by it in accordance with the rates fixed by the Board.

4. To countenance the furnishing of water free by the water company to the Somers Point Board of Education would involve a discrimination in violation of the statute.

*Enoch A. Higbee*, for Somers Point Board of Education.

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Atlantic County Water Co.—Water Supplied to Somers Point Public Schools.

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*Guy H. Davies and Jacob G. Herr, for the Atlantic County Water Company.*

The Somers Point Board of Education complained by letter dated May 5th, 1920, that the Atlantic County Water Company had submitted a bill for water used during the past three months in the public school; that in the past water had been supplied free according to a provision of the company's franchise; that the Board of Education, in its annual budget, made no provision to pay any water bill and had no funds to pay the same, and that the company threatened to turn off the water if the bill was not paid. It was asked that the Board of Public Utility Commissioners "issue a stay restraining said company from cutting off the water until we have time to adjust the same, which would be from four to six weeks at least."

Upon receipt of this letter the water company was asked for a statement of its position and was advised by letter that there should be no interruption of service to the public school because of the dispute over the water account until the Board had investigated the matter and ruled upon the same.

The company in reply stated that the original ordinance granting the franchise to the Pleasantville Water Company, predecessor to the Atlantic County Water Company, provides that the company furnish water free to the public schools of the city of Somers Point and that the ordinance was complied with until the Board fixed the schedule of rates which became effective July 1st, 1919; that it was the understanding of the company that the new rate schedule superseded all other rates previously established and set aside the ordinance provisions, in so far as they applied to rate schedules, and that with this understanding the company had charged the regular rates to all of its customers, the Board of Education among the rest.

Subsequently the company asked for a hearing and formal ruling by the Board upon the question of its right to discontinue service if its charges for the same were not paid; in the meantime continuing the supply of water to the school.

A hearing was held at Atlantic City, at which the company and Board of Education were represented. The hearing showed no substantial dispute as to the facts: that the ordinance granting the fran-

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**Atlantic County Water Co.—Water Supplied to Somers Point Public Schools.**

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chise to the predecessor to the Atlantic County Water Company provided that it should furnish water free to the public school; that the Board of Public Utility Commissioners fixed rates for the company to charge; that in the rates so fixed it was stated that "public buildings and public uses not otherwise provided for hereunder are subject to the same charge as private consumers;" and that there is no provision in the schedule for an exception applying to the public school.

The Board of Education denies the right of the company to charge it for water supplied to it because of the ordinance provision, requiring the company to furnish free water to the public schools of the city, and relies upon the case *Public Service Electric Company v. Board of Public Utility Commissioners and City of Plainfield* (Court of Errors and Appeals, 88 N. J. L., p. 603). This case is not in point. In the matter of the application of the Atlantic County Water Company for an increase in rates, the predecessor of this Board in its report fixing the just and reasonable rates, fixed the rates for public buildings and public uses as follows:

"E—Public Buildings and Public Uses not otherwise provided for hereunder are subject to the same charge as private consumers."

The power of the Board to thus fix rates despite the provisions of ordinances specifying rates has been sustained by our courts in a long line of cases. The most recent case is that filed on November 15th, 1921, by the Court of Errors and Appeals in the case of the *Hackensack Water Company v. Board of Public Utility Commissioners*, in which the court said:

"It may be conceded that neither the city of Hoboken nor the water company can alter this contract without the consent of the other party to it, but as was said by this court in *Atlantic Coast Elec. Ry. Co. v. Public Utility Board*, 92 L. 168, 173, a contract of this kind imposes no restriction on the sovereign power of the state to fix just and reasonable rates as subsequent conditions may make desirable. It is a contract subject to the state's sovereign power over rates, and when the state through its Board of Public Utility Commissioners exercises its sovereign power over rates the contract rights of the parties must yield."

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**Atlantic County Water Co.—Water Supplied to Somers Point Public Schools.**

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The only question, therefore, before the Board in the present case is whether, with due regard to the law and the facts, the company is justified in discontinuing service to the school without payment therefor. The amount of the bill is not disputed. The company is within its legal rights in making the charge fixed by the Board. It is the practice of the Board, where there is a dispute between a public utility and one of its customers, where the charge is challenged as being exorbitant or where there is reasonable doubt as to its legality, not to permit the service to be discontinued pending authoritative determination of the question in the courts. Neither of these factors is present in this case. On the other hand, the company is being paid for all water supplied to the schools in the other municipalities served by it in accordance with the rates fixed by the Board. To countenance the furnishing of water free by the water company to the Somers Point Board of Education would involve a discrimination in violation of the statute. The Board, therefore, will not grant any exception providing for discontinuance of service.

It is reasonable, however, to recognize that members of the school board occupy a position somewhat different from the ordinary customer of the company; that though their refusal to pay the company's bills may have been based on untenable grounds they, themselves, have received no benefit from the delay in payment, and that, acting as public officials and subject to laws with regard to the disbursement of moneys, they may not be able immediately to pay the back bills of the company and provide for future payment. This should be given consideration by the company. Its officials and the public officials should arrange upon terms of payment which would be reasonable under the circumstances.

If the members of the school board are unwilling to accept the findings of this Board and fail to provide, as promptly as is practicable, for payment to the water company, of money to which it appears to be lawfully entitled, this Board, for the reasons stated therein, will not attempt to compel the company to continue the service, and responsibility for discontinuance of service to the school, if such ensues, must rest upon the school board.

Dated December 6th, 1921.

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New Jersey and New York Railroad Co.—Discontinue Agent at Hillsdale Manor.

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**No. 943.****IN THE MATTER OF THE APPLICATION OF THE NEW JERSEY AND  
NEW YORK RAILROAD COMPANY TO DISCONTINUE MAINTAINING  
AN AGENT AT HILLSDALE MANOR.**

While the reasonableness of the company's desire to reduce operating expenses under present conditions warrants consideration, in view of the volume of passenger business it does not appear that the company would be warranted in discontinuing the agency.

*Grover R. James*, for the Company.

*Warner W. Westervelt*, for the Protestants.

This matter is before the Board upon the application of the New Jersey and New York Railroad Company to discontinue the services of the agent at Hillsdale Manor, as a measure of economy under the company's general program of reducing cost of operating wherever possible.

Hillsdale Manor is located 0.6 of a mile west of Hillsdale and 0.8 of a mile east of Woodcliff Lake. The community is largely residential, and of the total number of families living in the vicinity, approximately 60 per cent. use trains as commuters.

At the hearing statements of passenger revenues were submitted, showing for the year 1916, \$2,807.98; 1917, \$3,759.02; 1918, \$4,801.66; 1919, \$5,382.98; 1920, \$6,665.19; from May 1, 1920, to April, 1921, \$6,668.64. The revenues for 1920-1921, compared with 1916, represent an increase of 137 per cent. The salary paid the agent is \$1,151.44 per annum, representing 17.2 per cent. of the revenue for the year 1920-1921. In lieu of the agent, it is proposed to have an attendant on duty during certain periods of the day, who will perform the duties required of the agent other than the sale of tickets and receive a salary approximately one-third of the salary paid the regular agent.

While the reasonableness of the company's desire to reduce operating expenses under present conditions warrants consideration, in

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N. Y., S. & W. R. R. Co.—Discontinue Agent at Crystal Lake.

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view of the volume of passenger business it does not appear that the company would be warranted in discontinuing the agency at Hillsdale Manor. The Board therefore denies the prayer of the petition.

Dated December 6th, 1921.

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**No. 944.**

IN THE MATTER OF THE APPLICATION OF THE NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD COMPANY TO DISCONTINUE MAINTAINING THE AGENT AT CRYSTAL LAKE.

1. While the desire of the company to reduce operating expenses is recognized, due consideration should be given to the convenience afforded by an agent at a point where a fair amount of business is done and a progressive increase in revenue is shown.

2. Under the circumstances, the Board would not be warranted in permitting a reduction of operating expenses by dispensing with the services of the agent.

*G. R. James*, for the Company.

*J. W. DeYoe* and *B. G. Demarest*, for the Protestants.

The application in this matter is to discontinue the services of the agent at Crystal Lake, the company alleging that the earnings are not sufficient to warrant the continuance of the agency under the present necessity of reducing operating expenses.

Crystal Lake is located in a rural community 1.1 miles west of Campgaw and 1.3 miles east of Oakland. The freight business consists of carload shipments of fertilizers and general merchandise; passenger business, principally commuters to Paterson, and local travel. In addition to the freight business considerable freight is handled at the station by express.

Statements of revenues, passenger, freight and express, submitted by the company at the hearing, show for the year 1916, \$3,999.75;

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Erie Railroad Co.—Discontinue Agent at Morsemere.

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1917, \$3,516.35; 1918, \$3,834.74; 1919, \$5,346.89; 1920, \$5,938.77. The passenger revenue for 1916 was \$2,537.14; 1920, \$5,075.53, representing an increase in 1920 over 1916 of 100 per cent. The total revenue for 1920 shows an increase over 1916 of 48 per cent.; and the business for the year 1919 exceeded to a large extent that of 1918, which increase was maintained in 1920 with a slight gain. The salary of the agent is \$1,201.92 per annum, and expense of maintaining the agency is approximately 20 per cent. of the total revenue.

While the desire of the company to reduce operating expenses is recognized, due consideration should be given to the convenience afforded by an agent at a point where a fair amount of business is done and a progressive increase in revenue is shown. Under the circumstances, the Board would not be warranted in permitting a reduction of operating expenses by dispensing with the services of the agent at Crystal Lake, and the petition will therefore be denied.

Dated December 6th, 1921.

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No. 945.

IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT MORSEMERE.

1. The salary of the agent who it is proposed to discontinue is \$1,244.04 per annum, representing 40 per cent. of the revenue for the year 1920-21.

2. Under present conditions a regular agent must receive the standard wage scale required by the Federal Board, and, as the cost of the Morsemere agency represents so large a percentage of the revenue, it would not be reasonable to require its continuance.

*Grover R. James*, for the Company.

*LeRoy VanderBurgh*, for the Protestants.

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Erie Railroad Co.—Discontinue Agent at Morsemere.

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This application is made by the Erie Railroad Company to discontinue the services of the agent at Morsemere, the company alleging that its request is based on the present necessity of reducing operating expenses.

Morsemere is located on the Northern Railroad Branch 0.7 of a mile west of Ridgefield Station and 0.6 of a mile east of Palisade Park. In lieu of the agent it is proposed to place the station under the supervision of an attendant for practically the same number of hours as present agent is at the station. The attendant will perform all duties of the regular agent other than the sale of tickets. Sixty-trip, fifty-trip and ten-trip Morsemere tickets will be on sale at Palisade Park and Ridgefield, and one-way tickets can be purchased from conductor on train without payment of any excess.

Statements of revenues submitted by the company at the hearing show passenger revenue for the year 1916, \$2,455.76; 1917, \$2,562.08; 1918, \$2,190.68; 1919, \$3,012.25; 1920, \$3,160.78; May, 1920, to April, 1921, \$3,058.86. The salary of the agent is \$1,244.64 per annum, representing 40 per cent. of the revenue for the year 1920-1921.

As a means of reducing operating expenses railroad companies are discontinuing agents at stations where the expense of maintaining agencies is out of proportion with the revenue. The salary of agents is fixed by the Federal Wage Board and reductions are not permitted without the approval of said Board. Under present conditions a regular agent must receive the standard wage scale required by the Federal Board, and, as the cost of the Morsemere agency represents so large a percentage of the revenue, it would not be reasonable to require the continuance of the agency as at present. The Board will therefore permit the company to discontinue the services of the agent, and if future conditions change to warrant the re-establishment of the agency, the matter will be given further consideration.

Dated December 6th, 1921.

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Erie Railroad Co.—Discontinue Agent at Kearny.

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**No. 946.****IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT KEARNY.**

As the expense of maintaining the agency at Kearny represents so large a percentage of the total revenue, and a reasonable saving would result to the company by the elimination of an item of expense that could be made without resulting in unreasonable inconvenience, the Board concludes that for the present the company should be permitted to discontinue the services of the agency at Kearny, upon condition that sixty-trip, fifty-trip and ten-trip Kearny tickets can be obtained at Harrison station.

*Grover R. James*, for the Company.

*Fred J. Herrigel, Jr.*, for the Protestants.

This matter is before the Board upon application of the Erie Railroad Company to discontinue the services of an agent at Kearny. It is alleged that the revenue is disproportionate with the expense of the agency and that the volume of business does not warrant maintaining the services of an agent.

Kearny is located 0.4 of a mile west of Harrison and 0.6 of a mile east of Newark. A statement of passenger revenue, submitted by the company at the hearing, shows for the year September, 1920, to August, 1921, \$2,157.99. Of this amount 63.82 per cent. represents commutation tickets and 36.18 per cent. local tickets sold at the station. The salary of the agent is \$1,151.44 per annum, and expense of maintaining the agency is approximately 53.5 per cent. of the total revenue.

The company proposes to have an attendant at the station, who will perform the duties of the agent, excepting the sale of tickets. The station will be kept open for the convenience of its patrons; the building will be maintained, properly cleaned, heated and lighted, and schedule train stops continued. Tickets will not be sold at the station, but single fares can be paid to conductor on train without payment of any excess. As sixty-trip, fifty-trip and ten-trip tickets will not be sold at the station, it is the opinion of the Board that said class of

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**Erie Railroad Co.—Discontinue Agent at Woodside.**

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tickets reading from Kearny should be placed on sale at the Harrison Station.

As the volume of passenger business does not warrant the continuance of the agent, and tickets referred to will be on sale at Harrison and the station building will be under the care of an attendant, who will perform the duties of the agent other than the sale of tickets, it would appear that the inconvenience that may result to passengers would not be of such an extent as to require the continuance of the agent. The salary of agents is fixed by the Federal Wage Board and reductions cannot be made without the approval of said Board, and, under present regulations, the standard scale of wages as fixed by said Board must be paid to employees performing the duties of ticket agents.

As the expense of maintaining the agency at Kearny represents so large a percentage of the total revenue, and a reasonable saving would result to the company by the elimination of an item of expense that could be made without resulting in unreasonable inconvenience, the Board concludes that for the present the company should be permitted to discontinue the services of the agent at Kearny, upon condition that sixty-trip, fifty-trip and ten-trip Kearny tickets can be obtained at Harrison Station; and if future conditions change to warrant the re-establishment of the agency, the matter will be given further consideration.

Dated December 6th, 1921.

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**No. 947.****IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT WOODSIDE.**

1. As the portion of the station expenses chargeable to salary of agent is disproportionate with the revenue, it does not seem reasonable that the company should be required to maintain an agent under existing conditions.

2. Approval is given to discontinuance of station agency at Woodside upon condition that sixty-trip, fifty-trip and ten-trip Woodside tickets can be obtained at the North Newark and Belleville Stations.

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Erie Railroad Co.—Discontinue Agent at Woodside.

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*Grover R. James, for the Petitioner.*

This matter is before the Board upon the application of the Erie Railroad Company to discontinue the services of an agent at Woodside. It is claimed that the revenue is disproportionate with the expense, and that the volume of business does not warrant maintaining the services of an agent.

Woodside is located on the Newark Branch 0.5 of a mile east of Belleville and one mile west of Riverside. A statement of passenger revenue, submitted by the company at the hearing, shows for the year September, 1920, to August, 1921, \$2,173.04. Of this amount 76.37 per cent. represents commutation tickets and 23.63 per cent. local tickets sold at the station. The salary of the agent is \$2,788.60 per annum. In addition to performing the duties of agent, gates at the intersection of a highway and tracks at the station are operated by the agent. Under the present scheme of reducing operating expenses it is proposed to have the gateman also act as caretaker of the station and perform the duties of agent, excepting the sale of tickets, and by this method the company claims there will be a saving of \$1,514.20. As the portion of the cost of operating the Woodside Station chargeable to agent's salary is \$1,514.20, the cost of maintaining present agent represents 70 per cent. of the revenue for the year 1920-1921.

The station will be kept open for the convenience of its patrons; the building will be maintained properly cleaned, heated and lighted, and scheduled train stops continued. Tickets will not be sold at the station, but single fares can be paid to conductor on train without payment of any excess. As sixty-trip, fifty-trip and ten-trip tickets will not be sold at the station, it is the opinion of the Board that said class of tickets reading from Woodside should be placed on sale at the North Newark Station of the Greenwood Lake Division, also at Belleville Station on the Newark Branch.

As the portion of the station expenses chargeable to salary of agent is disproportionate with the revenue, it does not seem reasonable that the company should be required to maintain an agent under existing conditions. The Board will therefore approve the application to discontinue the station agency at Woodside, upon condition that sixty-trip, fifty-trip and ten-trip Woodside tickets can be obtained at the North Newark and Belleville Stations.

Dated December 6th, 1921.

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Erie Railroad Co.—Discontinue Agent at Orange.

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**No. 948.****IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT ORANGE.**

Approval is given to discontinuance of agency provided the company has a representative at the station for transaction of necessary business from 7 A. M. until 9 A. M. and keeps the station open covering hours now in effect.

*Grover R. James*, for the Company.

This application is made by the Erie Railroad Company to discontinue the services of an agent at Orange, the company basing its request on the present necessity of reducing operating expenses.

The station is located on the Orange Branch of the Greenwood Lake Division 0.5 miles west of Brighton Avenue Station and 0.5 miles east of Llewellyn Station. The freight business at Orange is under the supervision of a freight agent and the only receipts handled by the agent at the Orange Station are the proceeds from the sale of tickets.

Statements of passenger revenue were submitted by the company at the hearing showing for the year 1916, \$5,356.44; 1917, \$5,048.62; 1918, \$6,107.09; 1919, \$5,028.24; 1920, \$4,900.74. The salary of the agent is \$1,151.44 per annum, and the expense of maintaining the agency based on the revenue for the year 1920-1921 is approximately 24 per cent. of the total passenger revenue.

While the reasonableness of the company's desire to reduce operating expenses is recognized, owing to the volume of passenger business the necessity is apparent for the presence of an agent or clerk for at least a portion of the day. With a representative of the company at the station from 7 A. M. until 9 A. M., it would seem that the services of the regular agent could be dispensed without materially inconveniencing the company's patrons. Therefore, if the company will arrange to have a representative at the station for the transaction of the necessary business from 7 A. M. until 9 A. M., and keep the station open covering hours now in effect, the Board will approve such an arrangement in lieu of the agency now effective.

Dated December 6th, 1921.

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Erie Railroad Co.—Discontinue Agent at Riverside.

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**No. 949.****IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT RIVERSIDE.**

For the present the company should be permitted to discontinue the services of the agent at Riverside, upon condition that sixty-trip, fifty-trip and ten-trip Riverside tickets can be obtained at North Newark and Newark Fourth Avenue Stations.

*Grover R. James*, for the Company.

*Herman G. Loew*, for the Protestants.

This matter is before the Board upon the application of the Erie Railroad Company to discontinue the services of an agent at Riverside. It is claimed that the revenue is disproportionate with the expense of the agency and that the volume of business does not warrant maintaining the services of an agent.

Riverside is located 0.9 of a mile east of Newark and 0.5 of a mile west of Woodside. These stations are within the limits of the City of Newark. A statement of passenger revenue submitted by the company at the hearing shows for the year September, 1920, to August, 1921, \$3,447.92. Of this amount 87.31 per cent. represents commutation tickets and 12.69 per cent. local tickets sold at the station. The salary of the agent is \$1,244 per annum, and expense of maintaining the agency is approximately 36 per cent. of the total revenue.

The company proposes to have an attendant at the station who will perform the duties of the agent, excepting the sale of tickets. The station will be kept open for the convenience of its patrons; the building will be maintained, properly cleaned, heated and lighted, and schedule train stops continued. Tickets will not be sold at the station, but single fares can be paid to conductor on train without payment of any excess. As sixty-trip, fifty-trip and ten-trip tickets will not be sold at the station, it is the opinion of the Board that said class of tickets reading from Riverside should be placed on sale at the North

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**Erie Railroad Co.—Discontinue Agent at South Paterson.**

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Newark Station, on the Greenwood Lake Division, also at the Newark Fourth Avenue Station, on the Newark Branch.

As the volume of passenger business does not warrant the continuance of the agent, and tickets referred to will be on sale at convenient stations to Riverside, the station building will be under the care of an attendant who will perform the duties of the agent other than the sale of tickets, it would appear that the inconvenience that may result to passengers would not be of such an extent as to require the continuance of the agent. The salary of agents is fixed by the Federal Wage Board and reductions cannot be made without the approval of said Board, and, under present regulations, the standard scale of wages as fixed by said Board must be paid to employees performing the duties of ticket agents.

As the expense of maintaining the agency at Riverside represents so large a percentage of the total revenue, if the company is to be permitted to decrease operating expenses, reductions must be made in items least affecting the general operations of the property. The Board, therefore, concludes that for the present the company should be permitted to discontinue the services of the agent at Riverside, upon condition that sixty-trip, fifty-trip and ten-trip Riverside tickets can be obtained at the North Newark and Newark Fourth Avenue Stations.

Dated December 6th, 1921.

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**No. 950.**

**IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT SOUTH PATERSON.**

Application to discontinue an agency is denied where it appears that the passenger business is of such volume as to reasonably warrant the necessity of maintaining an agent for the convenience of the company's patrons.

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Erie Railroad Co.—Discontinue Agent at South Paterson.

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*G. R. James*, for the Company.

*Francis Scott*, for the Protestants.

This application is made by the Erie Railroad Company to discontinue the services of the agent at South Paterson Station on the Newark Branch, the company basing its request on the present necessity of reducing operating expenses.

The South Paterson Station is in the southwesterly portion of the City of Paterson, 1.1 miles distant along the railroad from the Main Paterson Station. To reach the Main Station from the South Paterson Station, which is located on Main Street, one of the principal highways of the city, it would be necessary to cover a distance of approximately two miles if the trip was made by trolley car. The vicinity of the South Paterson Station is residential with a large population within a conveniently reasonable distance of the station.

A statement of passenger revenue, submitted by the company at the hearing, shows the revenue for the year 1918, \$6,070.65; 1919, \$5,814.32; 1920, \$6,778.18; from May 1st, 1920, to April 30th, 1921, \$7,016.32. The salary of the agent is \$1,401.60 per annum, representing 20 per cent. of the revenue for the year 1920-1921.

The receipts at the South Paterson Station are from the sale of tickets only, indicating a passenger business of such volume as to reasonably warrant the necessity of maintaining an agent for the convenience of the company's patrons. The desire of the company to reduce operating expenses under existing conditions is recognized, but due consideration must be given to the inconvenience that would result in depriving a community of such magnitude as South Paterson of the services of an agent. The petition to discontinue maintaining an agent at South Paterson is therefore denied.

Dated December 6th, 1921.

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Erie Railroad Co.—Discontinue Agent at Brighton Avenue, East Orange.

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**No. 951.****IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT BRIGHTON AVENUE.**

Application to discontinue an agency is denied where the salary of the agent represents but 15.8 per cent. of the annual revenue, and material inconvenience would result.

*Grover R. James*, for the Company.

*F. J. Berry*, for the Protestants.

This application is made by the Erie Railroad Company to discontinue the services of the agent at Brighton Avenue, on the Orange Branch of the Greenwood Lake Division, the company basing its request on the present necessity of reducing operating expenses.

The Brighton Avenue Station is located in the westerly portion of the City of East Orange, 0.6 of a mile west of East Orange Station, and 0.5 of a mile east of Orange Station. The vicinity of the Brighton Avenue Station is residential with a large population within a conveniently reasonable distance of the station.

A statement of passenger revenue, submitted by the company at the hearing, shows the revenue for the year 1918, \$7,581.68; 1919, \$7,992.47; 1920, \$7,544.63; from May, 1920, to April 30th, 1921, \$7,572.91. The salary of the agent is \$1,201.92 per annum, representing 15.8 per cent. of the revenue for the year 1920-1921. The receipts of the Brighton Avenue Station are from the sale of tickets only, indicating a passenger business of such volume as to reasonably warrant the necessity of maintaining an agent for the convenience of the company's patrons. The desire of the company to reduce operating expenses under conditions is recognized, but due consideration must be given to the inconvenience that would result in depriving a community of the magnitude of the section of East Orange in the vicinity of Brighton Avenue Station of the services of an agent. The petition to discontinue maintaining an agent at Brighton Avenue is therefore denied.

Dated December 6th, 1921.

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Erie Railroad Co.—Discontinue Agent at Prospect Street, City of Passaic.

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**No. 952.**

IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY TO DISCONTINUE MAINTAINING AN AGENT AT PROSPECT STREET.

A petition to remove an agent is denied where the salary of the agent is but 17.8 per cent. of the annual revenue and material inconvenience would result.

*Grover R. James*, for the Company.

*A. O. Miller*, for the Protestants.

This application is made by the Erie Railroad Company to discontinue the services of the agent at Prospect Street Station, in the City of Passaic, the company basing its request on the present necessity of reducing operating expenses.

The Prospect Street Station is located 0.7 of a mile west of Passaic Park Station, and 0.4 of a mile east of the Main Passaic Station, and is in the business section of the city, with a large population within a conveniently reasonable distance of the station.

A statement of passenger revenue submitted by the company at the hearing shows the revenue for the year 1918, \$8,291.02; 1919, \$8,428.43; 1920, \$7,444.92; from May, 1920, to April, 1921, \$7,371.43. The salary of the agent is \$1,297.44 per annum, representing 17.6 per cent. of the revenue for the year 1920-1921.

The receipts at the Prospect Street Station are from the sale of tickets only, indicating a passenger business of such volume as to reasonably warrant the necessity of maintaining an agent for the convenience of the company's patrons. The desire of the company to reduce operating expenses under existing conditions is recognized, but due consideration must be given to the inconvenience that would result from the elimination of the services of an agent at a station located in a business section of the city with a large population in close proximity thereto. The petition to discontinue maintaining an agent at Prospect Street is therefore denied.

Dated December 6th, 1921.

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Lehigh and Hudson River Railway Co.—Discontinue Agent at Tranquility.

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**No. 953.****IN THE MATTER OF THE APPLICATION OF THE LEHIGH AND HUDSON  
RIVER RAILWAY COMPANY TO DISCONTINUE MAINTAINING AN  
AGENT AT TRANQUILITY.**

As the public would not suffer material inconvenience and the expense of maintaining an agent at Tranquility approximates 60 per cent. of the total yearly revenue, it is held not to be unreasonable under existing conditions to permit the removal of the agent.

*C. S. Beattie*, for the Company.

*C. E. Cook*, for the Protestants.

Hearing held at Hackettstown November 7th, 1921.

This matter comes to the Board upon the application of the Lehigh and Hudson River Railway Company for permission to discontinue the maintenance of an agent at Tranquility Station, the company alleging that the volume of business does not warrant the expense of continuing the agency. The railroad company proposes to change Tranquility Station from an agency station to a non-agency operated station or prepaid point, continuing the station building for the convenience of the passengers, and train service, both passenger and freight.

Tranquility is located 1.6 miles east of Allamuchy and 4.3 miles west of Andover Junction. Station agencies are maintained at said points. Freight facilities at Tranquility consist of a freight house and siding track for carload deliveries. The freight service consists of one train on alternate days for less than carload consignments, and one train each day for carload deliveries. The passenger service consists of two trains each way per day—eastbound trains, 9:36 A. M. and 2:48 P. M.; westbound, 10:06 A. M. and 6:00 P. M.

Statement of freight business submitted at the hearing shows for the year ending July, 1921: inbound, 52 carloads received at Tranquility and 302 less than carload shipments; outbound, 3 carloads and

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**Lehigh and Hudson River Railway Co.—Discontinue Agent at Tranquility.**

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27 less than carload shipments. The total freight revenue for said period was \$2,068.16, an average of \$172.34 per month. Statement of passenger business shows for the year ending July, 1921, \$485.67, an average of \$40.50 per month. The total passenger and freight revenue for said year, \$2,553.83. The salary paid the agent for the year ending July, 1921, as fixed by the Federal Wage Board was \$1,515.21, representing 59 per cent. of the total revenue. This salary cannot be reduced without the consent of the Federal Board.

The principal commodity shipped from Tranquility is milk from the Borden's Farms Products Company, located near the station. A communication from said company offered at the hearing is to the effect that the elimination of the agent at Tranquility Station will not result in any inconvenience or difficulty in the handling of the company's milk shipments. The remainder of the freight business at Tranquility comprises principally consignments of merchandise for a general store, and feeds, grains and fertilizers.

Under proposed scheme of operating the station, arrival notices and freight bills would be prepared by the agent either at Allamuchy or Andover Junction. As Allamuchy is the nearest station to Tranquility, the supervision of freight shipments to and from Tranquility should be placed under the jurisdiction of the agent at this point. As freight consignments would be placed in the freight house, it was claimed if the agent is eliminated that consignments placed in the freight house should be properly protected, which would necessitate keeping the door of the freight house locked. An arrangement was proposed at the hearing whereby a key could be placed where it could be readily obtained permitting removal of consignments when necessary.

As the public would not suffer material inconvenience, and the expense of maintaining the agent at Tranquility approximates 60 per cent. of the total yearly revenue, it is not unreasonable under existing conditions to permit the elimination of the services of the agent. The Board, therefore, concludes that for the present the company should be permitted to discontinue the services of the agent, and if conditions change to the extent of warranting the re-establishment of an agent, the matter will be given further consideration. The permission so granted is with the understanding that the station will be kept open

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Morris and Somerset Electric Co.—Consolidated with Boonton Electric Co.

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for the convenience of passengers; that the station building will be maintained, properly cleaned, heated and lighted; that a key to the freight house will be placed at a convenient point near the station and notice posted at the freight house indicating where it can be obtained; that the supervision of freight shipments to and from Tranquility shall be under the supervision of the agent at Allamuchy; that excess fare shall not be required when tickets are purchased from the conductor on train, and that trains now scheduled to stop on flag shall make regular stops.

Dated December 6th, 1921.

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**No. 954.**

IN THE MATTER OF THE APPLICATION OF THE MORRIS AND SOMERSET ELECTRIC COMPANY FOR APPROVAL OF THE ISSUANCE OF \$450,000 FIRST MORTGAGE BONDS, THE ACQUISITION OF THE CAPITAL STOCK OF THE BOONTON ELECTRIC COMPANY AND THE MERGER AND CONSOLIDATION OF THE LATTER WITH THE PETITIONER.

1. It appears that on December 31st the stock of the Boonton Electric Company will have a value of approximately \$24,000, provided no distribution of surplus is made before that date.

2. If, at the time of acquisition, the stock of the Boonton Company has a value of not less than \$24,000, approval will be given to the issuance of this amount of stock by the Morris and Somerset Electric Company for the purpose of acquiring the entire outstanding capital stock of the Boonton Electric Company.

3. There must be approved by the Board a general mortgage securing the payment of the additional two per cent. interest on a proposed issue of first mortgage bonds before approval can be given to the issuance of the latter.

4. An agreement of merger and consolidation must be submitted before a petition asking for approval of such merger and consolidation is granted.

*John R. Hardin*, for the Petitioners.

Under date of April 13th, 1920, application was made by the Morris and Somerset Electric Company for approval of the issuance

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**Morris and Somerset Electric Co.—Consolidated with Boonton Electric Co.**

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of \$200,000 par value of capital stock and \$350,000 par value of three-year six per cent. notes secured by the deposit of collateral, consisting of \$100,000 par value of the company's first mortgage bonds, the notes to be issued at not less than 95 per cent. of par value and the proceeds used in acquiring the leased properties operated by it and by the Boonton Electric Company. In the Board's report of June 1st, 1920, in this matter the purpose of this note issue was approved, but no certificate approving the issuance was granted at that time, inasmuch as the Board withheld its approval of the purpose of part of the capital stock sought to be issued at the same time, leaving to the company the final determination of the proper proportion of each class of securities to be issued, which could be submitted in a supplemental petition, taking into account the Board's refusal to approve part of the purpose for which \$200,000 capital stock was sought to be issued.

Subsequently application was made by the company for approval of the issuance of \$200,000 capital stock for the purpose of reimbursing it for construction expenditures not previously capitalized, but no renewal of the application for approval of the \$350,000 note issue was ever made. In the application now before the Board, the company seeks approval of the issuance of its first mortgage bonds, instead of notes secured by bonds pledged as collateral, with additional interest coupons, at the rate of two per cent. per annum, attached to each bond and secured by a second mortgage on all its property, which are to be sold by the company at not less than 92 per cent. of par value. As these bonds mature within approximately twenty years, the cost to the company of the money obtained from their issuance will be more than one per cent. per annum less than if it had issued at 95 the three-year six per cent. collateral notes. The company also claims that there will be a further advantage in the issuance of bonds instead of notes in that there will be no duplication of obligations and no possibility of sacrifice of the bonds as collateral to the notes. The company states that this is the best price at which it can raise the money at the present time, and that it must do so before the close of the present month, when its option to purchase the leased properties for \$350,000 expires and that the lessor companies have announced that the option will positively not be extended beyond that date.

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**Morris and Somerset Electric Co.—Consolidated with Boonton Electric Co.**

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The total amount of bonds the company now seeks to issue is \$450,000, the balance of the proceeds after providing \$350,000 for the purchase of the leased properties to be used in acquiring at par and accrued interest the present outstanding \$45,000 par value of first mortgage bonds of the Boonton Electric Company and to provide additional working capital to the extent of approximately \$20,000. .

Reference is above made as well as in the petition to the securing of the additional two per cent. interest on the first mortgage bonds by a general mortgage on all the property of the company subject to its first mortgage, but the approval of this second mortgage does not appear to be specifically requested in the present application, which approval must also be obtained as well as the approval of the issuance of the bonds thereunder.

Under date of March 31st, 1921, the Board approved the issuance of \$150,000 additional capital stock by the company, none of which the company reports has yet been issued. Half of this issue was to be used for working capital. In its present application the company asks permission to use \$40,000 of this unissued stock to acquire the present outstanding stock of the Boonton Electric Company, which is to be cancelled when the proposed merger and consolidation takes place, instead of for use as working capital as originally proposed, approximately \$20,000 of the working capital being provided for in the proposed issue of first mortgage bonds.

In the Board's report of June 1st, 1920, above referred to, the Board found the value of the Boonton Electric Company's stock to be only \$11,000, and for this reason withheld its approval of the issuance of \$40,000 capital stock by the Morris and Somerset Electric Company for the purpose of purchasing the Boonton stock. The company now claims that the value of this stock, on the basis of the calculation in the Board's report, has now increased to more than \$30,000, and that if proper consideration were given to all the elements of value in the property of the Boonton Electric Company, its capital stock would be found to have a value of at least \$40,000.

Accompanying the present application is a balance sheet of the Boonton Electric Company as of October 31st, 1921, from which can be ascertained the amount of increase in value of the company's capital stock since August 31st, 1919, as of which date the Board found the value to be \$11,000 as per its report of June 1st, 1920, above referred

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**Morris and Somerset Electric Co.—Consolidated with Boonton Electric Co.**

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to. The total value of the Boonton property, excluding leased property, as per that report was \$91,658. The net additions to the property between August 31st, 1919, and October 31st, 1921, were \$100.-375, making a total value on the latter date, without deduction for depreciation, of \$192,033. Deducting the reserve for accrued amortization of capital on October 31st, 1921, \$36,582, leaves a value represented by the company's securities of \$155,451. Deducting from this the par value of the Boonton Electric Company's bonds, \$45,000, leaves as an amount represented by capital stock and floating debt \$110,451. The excess of current liabilities over current assets as of October 31st, 1921, was \$90,429, deducting which leaves a balance of \$20,022 as the amount of value represented by the Boonton Electric Company's capital stock.

From the above calculation, made on the same basis as that in the Board's report of June 1st, 1920, it is seen that the value of the Boonton Electric Company's capital stock is only about one-half of that claimed by the company. If of the \$75,000 stock to be issued for working capital approved by the Board on March 31st, 1921, \$40,000 is issued for the Boonton Company's stock, it would leave \$35,000 stock to be issued for working capital. Adding to this the \$20,000 of bonds proposed to be issued for this purpose makes a total of \$55,000 for working capital, or \$20,000 less than the amount of stock authorized to be issued for this purpose, which presumably must be provided for out of the petitioner's surplus or floating debt. Its surplus on October 31st, 1921, was \$21,237, or more than enough to cover the difference in working capital or the difference in value of the Boonton Company's stock as per the above calculation and as now claimed by the company so that if the Board granted its permission to issue \$20,000 par value of the Morris and Somerset Electric Company's stock in part payment for the stock of the Boonton Company, leaving the balance of the \$75,000 stock to be issued for working capital as authorized on March 31st, 1921, the company could divert \$20,000 of its surplus from working capital and use it to complete the purchase of the Boonton Company's stock, which in the merger and consolidation would be given a value of only \$20,000, the difference between this and the \$40,000 purchase price being written off from surplus.

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**Morris and Somerset Electric Co.—Consolidated with Boonton Electric Co.**

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By adjustments which the company proposes to make in its accounts at the close of the year, the surplus of the Boonton Company will be further increased to the amount of \$4,000 on that date aside from the normal growth from operations during the last two months of the year, so that on December 31st the company's capital stock will have a value of approximately \$24,000, provided that no distribution of surplus is made before that date. Accordingly if at the time of acquisition the stock of the Boonton Company has a value, on the basis of the above calculation, of not less than \$24,000, the Board will approve the issuance of this amount of stock by the Morris and Somerset Electric Company for the purpose of acquiring the entire outstanding capital stock of the Boonton Electric Company. Before a certificate approving such issue is granted, however, application should be made by the last-named company for permission to transfer on its books its capital stock to the Morris and Somerset Electric Company.

As above stated, there must first be approved by the Board the general mortgage securing the payment of the additional two per cent. interest on the proposed issue of first mortgage bonds before approval can be given to the issuance of the latter. Such approval will be granted as soon as the said general mortgage is submitted and approved.

The petitioner also asks in its application for approval of the merger and consolidation of itself and the Boonton Electric Company, but no agreement of merger and consolidation is submitted with the petition. This also must be done before a certificate approving the proposed merger and consolidation is granted.

Dated December 7th, 1921.

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Newark and Hudson R. R. and Erie R. R.—Relocate Tracks in Newark.

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**No. 955.****IN THE MATTER OF THE APPLICATION OF THE NEWARK AND HUDSON RAILROAD AND THE ERIE RAILROAD FOR PERMISSION TO RELOCATE TRACKS AT GRADE ACROSS PASSAIC STREET AND FOURTH AVENUE, IN THE CITY OF NEWARK.**

The practice of the Board respecting applications for new crossings at grade, relocation of tracks and additional tracks, has generally been to require the consent of the local municipality prior to the Board passing on the applications; but as safe and adequate service requires that the new bridge be placed in operation as soon as practicable, the Board will grant permission to relocate the tracks in accordance with the plan submitted, but without prejudice to the legal requirements of the City of Newark.

*Duane E. Minard*, for the Companies.

*Joseph G. Wolber*, for the City of Newark.

This matter comes before the Board upon application of the Newark and Hudson Railroad Company and the Erie Railroad Company for permission to relocate tracks at grade across Fourth Avenue and Passaic Street, in the City of Newark, said relocation being required to make connection with the westerly approach of a bridge recently constructed across the Passaic River between Kearny and Newark to replace an existing bridge which is to be abandoned.

The jurisdiction of the Board relative to crossing of railroad tracks at grade is set forth in Section 21 of an act creating the Board of Public Utility Commissioners, Chapter 195, Laws of 1911, as amended by Chapter 218, Laws of 1917:

“No highway shall be constructed across the tracks of any railroad company grade, nor shall any track over which locomotives, railroad or street railway cars are to pass be laid across any highway, so as to make a new crossing at grade, nor shall the tracks of any railroad or street railway or traction company be laid across the tracks of any other railroad or street railway or traction company without first obtaining therefor permission from the board; *provided, however*, that this section shall not apply to the replacement of lawfully existing tracks.”

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Newark and Hudson R. R. and Erie R. R.—Relocate Tracks in Newark.

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A hearing was held at Newark on December 14th, 1921. It developed in the proceedings that the consent of the City of Newark to the proposed relocation has not been granted, as an agreement between the City of Newark and the railroad companies covering future contemplated improvements and highway construction in the vicinity of the highway crossings at Fourth Avenue and Passaic Street has not been concluded. As the relocation of the tracks is necessary to make connection with the new bridge, located approximately fifty feet north of the present bridge location, it was contended by the representative of the railroad companies that the present application, covering relocation of tracks, and the anticipated agreement with the City of Newark relative to future improvements, should be taken as a separate and distinct matter for consideration.

Upon a plan filed with the petition, existing tracks to be relocated are shown in dotted white lines and proposed new location in solid red lines. Crossing Passaic Street at present are three tracks: westbound main, eastbound main and a lead track. Crossing Fourth Avenue are three tracks: westbound main, eastbound main and a siding track. It is proposed to shift the tracks crossing Passaic Street to a location, measured along the center of the highway, 116 feet north of their present location, and two main tracks on Fourth Avenue, 19 feet east of their present location.

The condition of the existing bridge has been under investigation by the Bridge Engineer of the Board for several years, and recommendations have been made from time to time covering improvements to maintain the bridge in safe condition for train movements thereover, necessitating a reduction in the speed of trains over the bridge in order to insure safety of the movements. The bridge has been used for a long period of time and has deteriorated to an extent requiring its abandonment and the construction of a new bridge of sufficient capacity to carry the heavier type of equipment now in use. The new bridge is of an improved type and is in place ready for operation. It was constructed owing to the findings from time to time of the Board's Bridge Engineer. Its immediate use is imperative under existing conditions to insure safety to travel, and it cannot be used unless the tracks are relocated as shown in the plan submitted.

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**Butler-Newark Bus Line, Inc.—Issue of \$20,000 Capital Stock.**

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The tracks crossing Fourth Avenue and Passaic Street are now protected by gates operated from a tower on Fourth Avenue, and at Passaic Street from the ground. It is proposed to relocate the gates at approaches so that all tracks crossing the highway will be protected. The relocation of the tracks across the highways will not create a condition in any way more dangerous to travel on the highway.

The relocation of the tracks can be considered independently of the contemplated agreement between the railroad companies and the City of Newark covering future improvements in the vicinity of the highway crossings.

The practice of the Board respecting applications for new crossings at grade, relocation of tracks and additional tracks, has generally been to require the consent of the local municipality prior to the Board passing on the applications; but, as safe and adequate service requires that the new bridge be placed in operation as soon as practicable, the Board will grant permission to relocate the tracks in accordance with the plan submitted, but without prejudice to the legal requirements of the City of Newark in the premises.

Dated December 19th, 1921.

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**No. 956.****IN THE MATTER OF THE APPLICATION OF BUTLER-NEWARK BUS LINE, INC., FOR APPROVAL OF ISSUE OF \$20,000 CAPITAL STOCK.**

1. It appears that the petitioner is operating three buses which cost \$13,441.63. The issuance of stock to the amount of the purchase price seems to be reasonable.

2. The Board is not satisfied that so large an amount as \$2,000 is necessary to provide a fund for emergency purposes or as working capital. \$1,000 is allowed for this purpose.

3. Upon condition that not less than two and one-quarter per cent. of the value new of the buses purchased be set aside monthly out of earnings as a depreciation account, approval is given to the issuance of capital stock to the par value of \$14,500.

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Butler-Newark Bus Line, Inc.—Issue of \$20,000 Capital Stock.

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4. Approval of the issuance of \$5,000 additional stock will be given if and when the legal requirements in connection with the operation of a fourth bus are fully complied with.

*C. Easman Jacobus*, for the Petitioner.

The petition in the above-mentioned matter asks for approval of issuance of stock to the amount of \$20,000 to be used as follows: \$18,000 for the purchase of two or more automobile buses and bodies, and \$2,000 for the purchase of extra equipment, and to provide a surplus fund for emergency purposes.

It appears that the petitioner is now operating three buses, between Newark and Butler, and that the operating company, which is the petitioner, is a public utility as defined by law.

The public utility act provides that no public utility as defined by the act shall

“Issue any stocks, stock certificates, bonds or other evidences of indebtedness payable in more than one year from the date thereof until it shall have first obtained authority from the Board for such proposed issue maturing in more than one year from the date thereof, when satisfied that the same is to be made in accordance with law and the purpose of such issue be approved by said Board.”

Upon the petition, hearing was held, and the Board has caused investigation to be made of the condition of the buses and the cost of the same. It appears that the three buses now being operated cost \$13,441.63. The prices paid for the buses appear to have been reasonable, and inspection shows them to be in good condition. The issuance of stock to the amount of the purchase price of these buses seems to be reasonable. In addition to the three buses the company has one smaller bus purchased for \$1,000. This bus does not appear to be of a suitable type for the transportation of passengers on the company's route. Permission to use it as an auto bus has not been given, and the Board is not satisfied that the operation of more than three buses is reasonably required. The Board will not approve any issue of stock for this bus.

The Board is not satisfied that so large an amount as \$2,000 is necessary to provide a fund for emergency purposes or as working

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**Butler-Newark Bus Line, Inc.—Issue of \$20,000 Capital Stock.**

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capital. It will allow for this purpose \$1,060, which added to the amount to be issued for the three buses will make \$14,500.

It appears that the company has in contemplation the use of an additional bus which should cost approximately \$5,000, and in its proposed issuance of \$20,000 capital stock included the cost of the fourth bus. This additional bus, if acquired by the petitioner, cannot be operated until a permit for the operation of same has been granted by the local authorities concerned and approved by this Board. The Board will, therefore, approve the issue of stock for the purchase of this bus, to become effective only after compliance by the petitioner with all the legal requirements for the operation of same.

It is the Board's opinion that capital stock may be properly issued at the present time to the amount of \$14,500, but that as a condition of this a depreciation fund should be established to represent accruing depreciation of the buses in operation.

The law provides that this fund, including the income from investments of moneys in such fund:

“shall not be expended otherwise than for depreciation, improvements, new constructions, extensions or additions.”

From this fund new buses can therefore be purchased as replacements become necessary. In the judgment of this Board, the monthly charge for depreciation should not be less than two and one-quarter per cent. of the value new of buses charged on the company's fixed capital account. Upon condition that at least this sum shall be set aside monthly out of earnings, the Board will, subject to its Conference Order Number Seven, approve the issuance of capital stock to the par value of \$14,500 at the present time, and will approve the issue of \$5,000 additional stock if and when the legal requirements in connection with the operation of this bus are fully complied with by the petitioner, this approval to expire one year from date. The Board, however, does not commit itself to approve of the operation of a fourth bus on this route.

Dated December 27th, 1921.

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New Jersey Water Service Co.—Increased Rates.

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**No. 957.**

**BOROUGH OF BARRINGTON VS. NEW JERSEY WATER SERVICE COMPANY, IN RE INADEQUATE SERVICE.**

**INVESTIGATION AS TO WHETHER THE NEW JERSEY WATER SERVICE COMPANY SUPPLIES SAFE, ADEQUATE AND PROPER SERVICE, IN RE SERVICE CONNECTIONS.**

**IN THE MATTER OF THE APPLICATION OF THE NEW JERSEY WATER SERVICE COMPANY FOR APPROVAL OF INCREASED RATES.**

1. The value of this property for the purpose of fixing rates from the previous determinations of the Board, plus additions at actual cost, and after deduction of depreciation, is \$368,000.

2. The increase in rates proposed by the company is estimated to produce a net income of about \$27,000, which is a net return slightly over 7 per cent. on the value determined above.

3. If the additions to property above set forth and absolutely needed in order that the company would be in a position to furnish safe, adequate and proper service to its customers were now in place, the value upon which present rates should be based is slightly upwards of \$400,000, and the anticipated net return would be about 6.7 per cent. on this latter figure.

4. The company should be required to make the improvements to its plant and system requisite in the proper performance of its public duty, and in order that this may be accomplished, the proposed rate increases must be made effective so that the company will be in a position to finance the needed improvements.

5. On a number of occasions the Board has approved certain increases in rates on condition that certain improvements were to be completed before the increased rates became effective. Difficulties have arisen in financing such improvements prior to the stabilizing of the company's financial condition. The Board will therefore allow the rates to become effective at an early date and will require the company to proceed with the work of installing the necessary improvements with a view to having them completed within eight months after the effective date of this order.

6. The Board permits the company to file, effective for the quarter commencing January 1st, 1922, the schedule of rates proposed by it.

*Norman Grey*, for the Company.

*Arthur Hawes*, for the Borough of Barrington.

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New Jersey Water Service Co.—Increased Rates.

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*R. Wayne Kraft*, for the Borough of Audubon.

*J. E. Fagen*, for the Borough of Oaklyn.

*Frank B. Jess*, for the Borough of Haddon Heights.

The three cases named above have been consolidated and will be treated in one report because of the fact that the rates charged have been more or less responsible for the growth of conditions which led to the complaints against the company.

The New Jersey Water Service Company was formed in 1913 by consolidation of the United Water Company, serving Haddon Heights, Audubon and Oaklyn, and the Haddonfield Water Company, serving Haddonfield. The original, and still the only, source of supply is located about a mile north of Haddonfield, where is located the pumping plant and the collecting system of the company. Water is obtained from two sources, partly from wells and partly from a collecting basin which is supplied from a number of springs. The springs are located upon a farm which was purchased by the company in order to protect the source of supply. The water is transferred from the pumping station by means of a single force main leading generally southwest through Haddonfield (from which Haddonfield is supplied), and thence through two main connections into Haddon Heights. Audubon and Oaklyn are supplied from branches of the main line which runs from Haddonfield to Haddon Heights along the Kings Highway.

Some years ago a company was formed, known as the Center Township Water Company, which built a small pumping plant and drove a well in the low land lying between Haddon Heights and Harrington on the south and not far from the White Horse Pike. The Center Township Water Company never laid any mains nor furnished any water service.

COMPLAINT OF THE BOROUGH OF BARRINGTON.

In 1915, owing to the growth of the community, and to the fact that the Center Township Water Company had never extended into Barrington as was the original plan of that company, the New Jersey

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New Jersey Water Service Co.—Increased Rates.

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Water Service Company entered into a contract with the Borough of Barrington, under which mains were to be extended throughout the built-up portions of the Borough and a number of hydrants set. A portion of this work was completed without very much delay, but the balance of the work has never been completed, so that large portions of Barrington are still without water mains, making it embarrassing for residents to obtain water for private consumption and also resulting in a lack of fire protection. The matter of the failure of the New Jersey Water Service Company to complete the laying of mains in Barrington has been brought to the Board's attention on a number of occasions, and the Board's inspectors have kept informed as to the lack of progress of the company in this regard. The Board had been assured, however, that the sale of certain bonds, the issuance of which had been approved by the Board, would enable the company to proceed without delay in completing the mains. This assurance was forthcoming on several occasions between 1915 or 1916 and the present time. In May, 1921, a fire occurred in Barrington which resulted in filing a complaint with the Board regarding the insufficiency of fire service. This complaint was investigated informally by the Board's inspectors, who made a report under date of August 10th, 1921. No specific recommendation was made in the report, but it strongly urged that the Borough and the company carry on negotiations with a view to financing the cost of the improvements needed (which were estimated would cost about \$1,500), to provide proper pressures in Barrington. The line running into Barrington is laid in the Clement's Bridge Road and between 5th Avenue and Barrington Avenue consists of a single line of 6-inch pipe. Water reaches the corner of 5th Avenue and Clement's Bridge Road in two different directions; in 5th Avenue through a 4-inch pipe, and in Clement's Bridge Road partly through a 6-inch pipe, and the balance through a 4-inch line. There are other lines in that portion of Haddon Heights east of the White Horse Pike, but in that portion of Haddon Heights just outside of Barrington, the water transmission capacity is too small. This transmission capacity must be increased, and the most practical way of doing this is to connect the present 6-inch main from 3d Avenue to 4th Avenue on High Street by means of a 6-inch line, extending the 6-inch line on 4th Avenue southward to connect to the line in Clement's Bridge Road,

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New Jersey Water Service Co.—Increased Rates.

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the total extensions involved amounting to about 900 feet of 6-inch pipe. This was recommended in the report made by the Board's inspector on August 10th, 1921.

Ninth Avenue, Haddon Heights, has recently been extended practically the entire distance to Barrington, connecting with the north and south streets. Building operations now going on in the territory southwest of Haddon Heights have resulted in the extension of 6-inch main southward in 9th Avenue to within a short distance of the Borough of Barrington. This line should be extended and its extension is a part of the company's plan for the future.

The pumping plant of this company, as already explained, is located northeast of Haddonfield, a distance of about 3.5 miles from Barrington, as measured over the route of the water company's lines. Certain future improvements of this company with reference to relocation of the pumping plant will also result in increasing pressures available in Barrington, and of these further reference will be made later. The reinforcement of mains in Haddon Heights referred to already should be provided at the earliest possible moment.

At the hearing in the above matter, which was held at the Board's rooms in the State House, Trenton, September 20th, 1921, the Borough was represented by Mr. P. F. Courtney. Testimony submitted on that day by Mr. Courtney, and admitted on the part of the company, was to the effect that although some 27 fire hydrants were to have been installed, but 13 had been put in, and that only about half of the mains contemplated in the contract of 1915 had been so far completed, although it was expected that the work would be completed early in the year 1916. Mr. Lightfoot, testifying for the company (p. 22, testimony of Sept. 20th, 1921), stated that there were a large number of additional houses desiring service which would require extensions of mains, and he admitted that "it would pay the interest on our investment if we could get the money to invest." It is beyond argument that some way must be found by which profitable extensions can and will be installed. The New Jersey Water Service Company was before the Board in a somewhat similar case some years ago, wherein the Borough of Oaklyn complained that the company had failed to carry out the terms of an agreement which provided that mains generally were to be laid through the streets of Oaklyn. At that time the Board ordered the company to install the mains re-

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New Jersey Water Service Co.—Increased Rates.

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quired by the borough. The company, under its then management, was unable to finance these extensions, and the result was a change in the management and control of the company. A similar situation appears to have arisen at this time, and if under the present management it is not possible to find some means of financing the needed extensions where such extensions furnish sufficient revenue to warrant their construction, the public necessities of the case require that whatever changes may be needed, in order that the residents of these communities may be properly served, must be made.

## COMPLAINTS AGAINST THE COMPANY'S RULES.

Due to the inability of this company to obtain the funds needed to meet the costs of construction, the company, in the spring of 1921, put into effect a rule which provided that any customer asking for service would be required to loan the company the sum of \$50 (which would later be repaid to the customer with interest), this money to be used in financing the cost of the house service connection and the meter. Numerous complaints were sent to the Board regarding the application of this rule, and the matter was placed on the Board's calendar for hearing on September 6th, 1921. At the hearing, Mr. Grey, president of the company, withdrew the rule entirely, but stated that there would be indefinite delay in connection with the installation of services into the various houses where the prospective customers were not in a position to loan the company the money needed to pay the cost of making the connection.

The Board's rules and regulations for water companies provide that the cost of the service connection between the main and curb and the cost of the meter are to be met by the company and charged to the company's capital account. In view of the fact that the company has withdrawn this rule, no further reference need be made to it at this time as the matter of financing the company will be referred to later.

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New Jersey Water Service Co.—Increased Rates.

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## APPLICATION FOR INCREASED RATES.

The present and proposed rates are as follows:

## SCHEDULE "D."

*Present Rates*—New Jersey Water Service Company.

Haddonfield—Minimum charge per quarter, \$2.50. Allowance, 10,000 gallons per quarter, at 25 cents per 1000.

Barrington—Minimum charge per quarter, \$3.00. Allowance, 10,000 gallons per quarter, at 30 cents per 1000.

Other territory—Minimum charge per quarter, \$2.875.

## BLOCK CHARGES FOR WATER CONSUMED AS SHOWN BY METER READINGS.

First 10,000 gallons per quarter covered by minimum charge above recited.	
Next 50,000 gallons per quarter @ 25 cents per 1,000.	
Next 50,000 gallons per quarter @ 22.5 cents per 1,000.	
Next 150,000 gallons per quarter @ 19 cents per 1,000.	
Next 250,000 gallons per quarter @ 16 cents per 1,000.	
Next 250,000 gallons per quarter @ 14 cents per 1,000.	
Next 250,000 gallons per quarter @ 12 cents per 1,000.	

## BUILDING PURPOSES.

Applications for this purpose must be signed by the owner. The following rates are for the construction of the cellar walls and floors, walls above cellar and all plastering, and shall not be used for any other purpose whatever:

Frame dwelling, 8 rooms or less.....	\$5.00
Frame dwelling, 9 to 14 rooms.....	8.00
Brick, stone or pebble dash dwelling, 8 rooms or less.....	9.00
Brick, stone or pebble dash dwelling, 9 to 14 rooms.....	12.00
Part frame and part brick or stone, 8 rooms.....	7.00
Part frame and part brick or stone, 9 to 14 rooms.....	10.00

All rooms over 14 will be charged at rate of \$1.00 per room.

For halls, churches, schools, stables, &c., the following rates will be charged:

Stone work, 8 cents per porch. Brick work, 5 cents per 1,000 bricks.  
Plastering, 5 cents per bushel of lime.  
Cement and concrete work, 10 cents per 100 square feet of area of surface and depth of 6 inches.

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NOTE.—On October 15th, 1918, the Company was permitted to add a war surcharge of 20 cents per consumer per month, or 60 cents quarterly to the above minimum rates.

## New Jersey Water Service Co.—Increased Rates.

## SCHEDULE "E."

*Proposed Rates—New Jersey Water Service Company.  
Effective October 1st, 1921.*

Quarterly minimum with allowance of 10,000 gallons	$\frac{5}{8}$ " meter,	\$4.00
Quarterly minimum with allowance of 12,500 gallons	$\frac{3}{4}$ " meter,	5.00
Quarterly minimum with allowance of 15,000 gallons	1 " meter,	6.00
Quarterly minimum with allowance of 17,500 gallons	1½" meter,	7.00
Quarterly minimum with allowance of 20,000 gallons	2 " meter,	8.00

First 10,000 gallons of water per quarter as above.

Next 50,000 gallons of water per quarter @ 35c per 1,000.

Next 50,000 gallons of water per quarter @ 30c per 1,000.

Next 150,000 gallons of water per quarter @ 27½c per 1,000.

Next 250,000 gallons of water per quarter @ 25c per 1,000.

Next 250,000 gallons of water per quarter @ 22½c per 1,000.

Next 250,000 gallons of water per quarter @ 20c per 1,000.

## WATER FOR BUILDING PURPOSES.

Frame dwelling, 8 rooms or less .....	\$7.00
Frame dwelling, 9 to 14 rooms .....	10.00
Brick, stone or pebble dash dwelling, 8 rooms .....	11.00
Brick, stone or pebble dash dwelling, 9 to 14 rooms .....	14.00
Part frame and part brick or stone, 8 rooms .....	9.00
Part frame and part brick or stone, 9 to 14 rooms .....	12.00

Sewer flush tanks, 20c per thousand gallons.

Fire hydrants, \$25.00 per annum.

It will be noted that no change is made at this time in the charges for fire protection service.

On October 18th, 1921, the company filed with the Board an application for an increase in rates of the New Jersey Water Service Company. This was placed on the Board's calendar for hearing at Camden on November 21st, 1921, and was heard on that day. Notices were sent to the authorities of all the municipalities served, and at the hearing witnesses testified that these notices had been sent out.

## VALUATION.

The value of the property of this company was determined by this Board in a report dated October 15th, 1918, as being \$344,714. Since

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New Jersey Water Service Co.—Increased Rates.

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then there have been additions of \$60,620, making the total value of \$405,334. Depreciation up to August 31st, 1921, was estimated at \$37,345, leaving a net present value of plant of approximately \$358,000. To this has been added \$10,000 for working capital, making a total value on a pre-war basis of \$368,000.

In order to finance the extensions made to this property which will be referred to in some detail, the company claims a necessity for an 8 per cent. return on the basis referred to, this amounting to \$29,440 per annum. The actual operating expenses, including taxes, have been as follows:

1918 .....	\$23,591
1919 .....	27,124
1920 .....	32,208
1921 .....	33,000

Total revenue required to pay 8 per cent. return, \$62,440.

Actual revenue for the year 1920 was \$50,500, and for the year 1921 it is estimated at \$53,000. The estimated normal increase in 1921 over 1920 is estimated at \$2,500, and the company has estimated the increase which might come from the new schedule at \$7,000, making a total estimated gross revenue which would have been obtained in 1921, if the proposed rates had been in effect throughout the year, of \$60,000. This would result in a deficit below an 8 per cent. return of \$2,440, or, in other words, in a net return of 7.33 per cent. on the valuation of \$368,000, which, it must be remembered, is a strictly pre-war value plus additions to the property at actual cost.

The capitalization of this company is as follows:

First mortgage bonds, Haddonfield Water Co. ....	\$40,000
First mortgage bonds, United Water Co. ....	100,000
First and refunding mortgage bonds, New Jersey Water Service Co.,	102,806
Extension warrants, Haddonfield Water Co. ....	600
Purchase money mortgage on farm where wells are located .....	6,750
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Total funded debt .....	\$250,150
Other outstanding obligations .....	46,970
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Total .....	\$297,120

In addition to the above, the company has outstanding capital stock in the amount of \$64,500, making a total capitalization of

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New Jersey Water Service Co.—Increased Rates.

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\$361,620. (The New Jersey Water Service Company was formed some years ago by consolidation of a number of other companies, the entire basis of the consolidation having been approved by the Board. It is because of this that the present aggregate capitalization is found to correspond very closely to the total value of the property now in existence.)

Examination of the testimony and of the company's annual reports and of the exhibits submitted shows that so far as these figures are concerned the proposed increase in rates would not result to the company in the collection of a gross revenue in excess of the amount required to bring to the company a fair return. The proposed increase, however, was attacked by representatives of the customers because of alleged inadequacy and insufficiency in the company's plant and system resulting in improper and insufficient service. Before determining the matter of rates, therefore, it becomes necessary to consider the conditions under which this company operates. The allegations regarding inadequacy of the company are as follows:

1. Improper character of water.
2. Insufficient pressure in Barrington, and failure of company to complete laying of mains through the borough.
3. Insufficient pressures in Audubon.

1. With regard to the character of water, it was testified that the State Board of Health had found fault with the water as supplied from the collecting basin in which is collected water from certain springs near Ellisburg. The State Board of Health has ordered the company to obtain another source of supply and to cease the use of the spring water within a short period of time and as soon as another satisfactory source can be properly developed. In the meantime the water is being chlorinated in a manner which meets with the entire approval of the State Board of Health, and although the water itself may be at times slightly discolored, it is now absolutely safe for drinking purposes.

Another reason, gradually becoming acute, for seeking a new source of supply is due to the fact that the company is now obtaining from its present source practically all the water that is available in the neighborhood; at any rate, it is obtaining from Ellisburg all of the water which the transmission main will carry, and as the bulk of the consumption is in the municipalities lying along the White Horse

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New Jersey Water Service Co.—Increased Rates.

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Pike, it would follow that the more economic plan would be to develop a new source of supply nearer to those municipalities than to invest any money in the larger transmission main from the present pumping plant. Some years ago this company took over, with the Board's approval, the plant and property of the Center Township Water Company, already referred to as lying in the hollow between Haddon Heights and Barrington. One well was driven by this company, and some machinery was installed which has been standing idle for nine or ten years. Arrangements are now being made with the manufacturers of the pumping equipment to have the old plant examined and tests made to determine the possibilities of installing a suitable plant at the new location, which might in time entirely supersede the plant at Ellisburg. Additional investment will be involved in the execution of this work, but in view of the fact that the character of water now served is satisfactory to the State Board of Health, no further mention of this portion of the complaint will be made in this report.

2. The lack of pressures in the Borough of Barrington, already referred to, will be remedied in two ways: (a) by laying some 900 feet of 6-inch pipe in that portion of the Borough of Haddon Heights east of White Horse Pike and north of Clement's Bridge Road; (b) by the extension of mains from Haddon Heights, particularly 9th Avenue, to connect up with the mains on the north side of Barrington. These mains will be needed in any case at some time in the near future to connect to the proposed new pumping plant. A considerable portion of the main in 9th Avenue is already in place, having just been completed, and its further extension to connect up with 3d Avenue in Barrington should be completed during the summer of 1922, together with the completion of the mains in Barrington. The completion of this work will result in supplying Barrington with ample water so far as pressures are concerned.

3. At the hearing on the company's petition for approval of increase in rates, held in Camden on November 21st, 1921, the opposition that developed was based almost entirely on alleged inadequate or insufficient service, particularly in the Borough of Barrington and in the Borough of Audubon. The situation in Barrington has already been referred to. In Audubon it was testified that there had been a very large number of new houses constructed, the majority of them built upon streets not already provided with water mains. Mr. John W.

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New Jersey Water Service Co.—Increased Rates.

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Zanger, Director of Highways and Public Works of the Borough of Audubon, submitted a map showing the mains in Audubon with the sizes indicated. It appears that these small lines, mainly  $\frac{3}{4}$ -inch and 1-inch, were laid by co-operation between the water company and various builders who were interested in having a water supply provided for the new houses.

Testimony submitted at length at the hearing on September 6th in connection with the investigation of charges for service connections developed the fact that the company claimed that it was unable to finance the extensions of mains needed to supply the new houses in Audubon and in other parts of its territory. This matter has already been referred to. Because of this inability on the part of the company, a number of the builders interested in real estate development appear to have been more than willing to assist the company in financing extensions of sufficient size to provide water at the new houses.

Mr. Le Cato testified:

“We are building quite a number of houses there; I built 26 so far this summer, and am starting 20 more, and would like the Board to give us the privilege of financing the water company ourselves on the basis of paying for and laying the pipe and making the connections if the Board will give us the permission to withhold 75 per cent. of the water rents until we get our money back with 6 per cent.; that is allowing the company 25 per cent. for the use of the water, and I would like to make that as a proposition.”

Mr. Grey, for the company, stated that if the Board would allow it, it would borrow money from the builders in order to provide the service to the new buildings. It appears that during the last couple of years the company has made extensions of mains, using, however,  $\frac{3}{4}$ -inch or 1-inch pipe, largely financed by the builders to the extent of about 9,600 feet. In some cases the builders have made the excavation and the company has provided and installed the pipe. In other words, the company has apparently gone as far as it felt it dared under its present financial condition in attempting to serve the new houses. This small pipe is laid in a good many different streets, and in no case was any great length laid at first in any one place. Due to construction of houses just beyond those completed a short time before (in each case), these small pipes have been extended and further extended

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New Jersey Water Service Co.—Increased Rates.

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so that in one case where only a small number of houses were to be served, there are some 16 houses, and it very naturally follows that pressures are insufficient and the residents are experiencing difficulty in getting water in their houses. It is this situation that now causes complaint, and in view of the way in which this whole situation has come about, due, as it is, to the difficulty in financing following war-time conditions, it is hardly fair to lay all of the blame for the existing conditions upon the company itself. The present state of affairs cannot, however, continue indefinitely, but some plan for permanent remedy must be adopted and put into effect as promptly as financial conditions will allow.

At the hearing on November 21st, Mr. Smith, Superintendent of the company, testified that there had been a growth in the territory very much more rapid in the last ten years than had been anticipated, and that the company's financial situation could not keep pace with this growth, being due, however, to the combination of circumstances caused by the war.

## BASIS FOR RATES.

The proper basis for rates should, of course, be such as would be the case where a company is furnishing safe, adequate and proper service. In order to serve present customers, there ought now to be in existence, in place of the  $\frac{3}{4}$ -inch and 1-inch mains, mains of 4 inches or 6 inches in size. There ought also to be in place, if the company is to provide the proper fire protection, additional hydrants along the lines of the larger mains. The total investment at the present time for this purpose, in order that present customers may have adequate service, is approximately \$15,000. In addition to this, it has already been shown that the service to Barrington is inadequate, due to lack of pressure. As already indicated, this would be partially remedied by the installation of certain additional mains in the southern portion of Haddon Heights. This particular item would cost about \$1,500. Both for assurance of continuous supply and also for the purpose of equalizing and improving pressures generally in the communities along the White Horse Pike, there should be a new standpipe erected at a central point at a cost of approximately \$15,000. These items should be in existence at the present time to assure good service to present customers, and the

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New Jersey Water Service Co.—Increased Rates.

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investment involved in such items should be included in the base upon which present rates should be calculated. Additional materials and incidental items bring the total investment up to about \$35,000. The financing of the extensions and improvements needed can only be done when it is fairly certain that the company will be able to pay interest on bonds issued and sold to the public. In the early part of this report, we have stated the value of the property as it exists at the present time and have shown the relation between the present earnings and anticipated earnings if the proposed rate increase becomes effective. The proposed increase in rates will yield the company a return of slightly over 7 per cent. on the valuation, which we have found of \$368,000. If in addition to the property now in place there was also property costing \$35,000 actually needed in order to furnish adequate and proper service to the present customers, the total basis of rates would be slightly upward of \$400,000, and the anticipated net earnings which the company estimates would be obtained from the proposed increase would amount to about 6.7 per cent. net return.

## CONCLUSIONS.

1. The value of this property for the purpose of fixing rates from the previous determinations of the Board, plus additions at actual cost, and after deduction of depreciation, is \$368,000.

2. The increase in rates proposed by the company is estimated to produce a net income of about \$27,000, which is a net return slightly over 7 per cent. on the value determined above.

3. If the additions to property above set forth and absolutely needed in order that the company would be in a position to furnish safe, adequate and proper service to its customers were now in place, the value upon which present rates should be based is slightly upwards of \$400,000, and the anticipated net return would be about 6.7 per cent. on this latter figure.

4. The company should be required to make the improvements to its plant and system requisite in the proper performance of its public duty, and in order that this may be accomplished the proposed rate increases must be made effective so that the company will be in a position to finance the needed improvements.

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New Jersey Water Service Co.—Increased Rates.

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5. On a number of occasions the Board has approved certain increases in rates on condition that certain improvements were to be completed before the increased rates became effective. Difficulties have arisen in financing such improvements prior to the stabilizing of the company's financial condition. The Board will therefore allow the rates to become effective at an early date, and will require the company to proceed with the work of installing the necessary improvements with a view to having them completed within eight months after the effective date of this order.

6. The Board will therefore permit the company to file, effective for the quarter commencing January 1st, 1922, the schedule of rates proposed by the company, which is as follows:

Quarterly minimum with allowance of 10,000 gallons	$\frac{5}{8}$ " meter	\$4.00
Quarterly minimum with allowance of 12,500 gallons	$\frac{3}{4}$ " meter	5.00
Quarterly minimum with allowance of 15,000 gallons	1" meter	6.00
Quarterly minimum with allowance of 17,500 gallons	$1\frac{1}{2}$ " meter	7.00
Quarterly minimum with allowance of 20,000 gallons	2" meter	8.00

First 10,000 gallons of water per quarter as above.

Next 50,000 gallons of water per quarter @ 35c per 1,000.

Next 50,000 gallons of water per quarter @ 30c per 1,000.

Next 150,000 gallons of water per quarter @  $27\frac{1}{2}$ c per 1,000.

Next 250,000 gallons of water per quarter @ 25c per 1,000.

Next 250,000 gallons of water per quarter @  $22\frac{1}{2}$ c per 1,000.

Next 250,000 gallons of water per quarter @ 20c per 1,000.

WATER FOR BUILDING PURPOSES.

Frame dwelling, 8 rooms or less .....	\$7.00
Frame dwelling, 9 to 14 rooms .....	10.00
Brick, stone or pebble dash dwelling, 8 rooms .....	11.00
Brick, stone or pebble dash dwelling, 9 to 14 rooms .....	14.00
Part frame and part brick or stone, 8 rooms .....	0.00
Part frame and part brick or stone, 8 to 14 rooms .....	12.00

Sewer flush tanks, 20c per thousand gallons.

Fire hydrants, \$25.00 per annum.

An order will be issued requiring the company to install and have completed by September 1st, 1922, the following improvements to its plant and system:

(a) A new standpipe, of suitable capacity, at a central point in its distribution system.

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New Jersey Water Service Co.—Increased Rates.

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(b) Mains of either 4 or 6 inches in size, as the particular street requires, in all of the streets of Audubon, Oaklyn and Barrington, which are now provided with pipes of  $\frac{3}{4}$ , 1 or  $1\frac{1}{4}$  inches in size.

(c) Reinforcement of the distribution system in the southern part of Haddon Heights, namely, on High Street, from 3d to 4th Avenues, and on 4th Avenue southward to connect to the line in Clement's Bridge Road, a total of about 900 feet.

(d) Completion of the distribution system in Barrington as requested by the municipal authorities; the extent to which this is necessary is, in the opinion of the Board, best indicated by the requirements of the contract entered into between the water company and the Commissioners of Fire District No. 1, of Center Township, Camden County, in 1915.

(e) The extension of the mains in 9th Avenue, Haddon Heights, to connect up with the mains in Barrington.

(f) The installation of hydrants along the new mains in accordance with requirements for proper fire protection, dependent, however, upon the receipt of the application therefor by the company from the proper municipal authorities.

(g) The company must also take steps without delay which will lead to the development of a new supply of water in order to carry out the requirements of the State Board of Health in this respect and to put its system on such a basis as will enable it to supply the quantities of water required by the communities which it is authorized to serve.

The Board will retain jurisdiction of these matters for the purpose of assuring the carrying out of the above conclusions regarding the improvements in and extensions of mains, and reducing the rates herein allowed if such improvements and extensions are not made prior to September 1, 1922.

Dated December 28th, 1921.

### ORDER.

This case being at issue upon complaints and answers on file and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the

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New Jersey Water Service Co.—Increased Rates.

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Board having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof, the Board of Public Utility Commissioners finds and determines that the New Jersey Water Service Company does not furnish safe, adequate and proper service, and

*Hereby Orders and Directs* the said New Jersey Water Service Company to file with the Board, not later than March 1st, 1922, plans providing for the following improvements to its plant and system:

(a) A new standpipe of suitable capacity at a central point in its distribution system.

(b) Mains of either 4 or 6 inches in size, as the particular street requires, in all of the streets of Audubon, Oaklyn and Barrington which are now provided with pipes of  $\frac{3}{4}$ , 1 or  $1\frac{1}{4}$  inches in size.

(c) Completion of the distribution system in Barrington as requested by the municipal authorities, the extent to which this is necessary is, in the opinion of the Board, best indicated by the requirements of the contract entered into between the water company and the Commissioner of Fire District No. 1, of Center Township, Camden County, in 1915.

(d) Reinforcement of the distribution system in the southern part of Haddon Heights, namely, on High Street, from 3d to 4th Avenues, and on 4th Avenue southward to connect to the line in Clement's Bridge Road, a total of about 900 feet.

(e) The extension of the mains in 9th Avenue, Haddon Heights, to connect up with the mains in Barrington.

(f) The installation of hydrants along the new mains in accordance with requirements for proper fire protection, dependent, however, upon the receipt of the application therefor, by the company, from the proper municipal authorities.

(g) The development of a new supply of water in order to carry out the requirements of the State Board of Health in this respect and to put its system on such a basis as will enable it to supply the quality and quantities of water required by the communities which it is authorized to serve.

This order shall become effective January 20th, 1922.

Dated December 28th, 1921.

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Public Service Electric Co.—Modification of Rates.

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**No. 958.****IN THE MATTER OF THE MODIFICATION OF THE ELECTRIC POWER  
RATES OF PUBLIC SERVICE ELECTRIC COMPANY.**

1. On February 27th, 1918, the Board authorized the Public Service Electric Company to file amended tariffs providing for a war surcharge of twenty-five per cent. to each bill of its wholesale and kilowatt-year customers and each bill of its retail power customers. The same surcharge was allowed on schedules for break-down service, the refrigerator rate and elevator rate. A coal clause providing for additional charges dependent upon the prices of coal beyond a certain minimum was also authorized.

2. The charges authorized were designed to provide revenue to enable the company to pay its rentals, dividends of eight per cent. on its capital stock and to appropriate a sufficient sum to general amortization.

3. On July 30th, 1919, the Board abrogated the surcharge as it affected customers supplied under the uniform power and the elevator rates.

4. It now being apparent that the company is earning enough without the surcharge to pay its rentals, dividends of eight per cent. on capital stock to appropriate an ample amount for amortization of fixed capital as well as a substantial surplus the Board is of the opinion that with the entire abrogation of the twenty five per cent. surcharge the company will have a sufficient net income to assure the continuance of safe, adequate and proper service, and to enable it to market its securities and finance the necessary extension required by the growth of its business.

*Edmund W. Wakelee, L. D. H. Gilmour and E. A. Armstrong, for the Company.*

*W. G. Stanton by G. C. Hullen, for Jersey City Chamber of Commerce.*

*Edward T. Moore and E. A. Van Clive, for Crucible Steel Company of America.*

*A. M. Torrey, for New Jersey Industrial Council.*

*George B. Evans, for Burlington County Transit Co.*

On February 27th, 1918, after hearing "In the Matter of the Petition of the Public Service Electric Company for Increase in Electric Power Rates," the Board, by its report, dismissed the petition as filed,

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Public Service Electric Co.—Modification of Rates.

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and the rates proposed thereunder were suspended with leave to the company to file amended tariffs, providing for a war surcharge of twenty-five per cent. to each bill of the wholesale power and kilowatt-year customers, as well as a surcharge of twenty-five per cent. to each bill of retail power customers "on the part thereof arising on account of all current, except that paid for at the ten-cent step." The same surcharge was allowed on schedules for break-down service on the refrigerator rate and elevator rate. The Board also approved a coal clause supplementary to the application of the above surcharge, similar to that proposed by the company, but in which the price of coal at which the first addition to the charge for current consumed was to be made was not less than \$5.50 per gross ton and in which the first deduction in the charges to be made was not less than \$5.00 per gross ton, the coal clause to apply to the current consumed by the wholesale power and kilowatt-year customers and to the current consumed by the retail power customers except that paid for at the ten-cent rate. This permission was granted on the following understanding:

"Acceptance by the company of the increases herein allowed will be taken as a stipulation that abrogation or modification of the war surcharge including coal clause allowances may be made as and if conditions as indicated by operating results warrant."

The Board required the company to file reports showing the operating results during each month under the surcharge and those for the corresponding month of the preceding year. After reports for twelve months had been submitted, it became quite evident that the company was earning more than it was contemplated would be earned at the time the surcharge was allowed. Accordingly, the Board, on its own initiative, called a hearing on May 22d, 1919, to ascertain to what extent, modification or abrogation of the surcharge theretofore allowed should be made by reason of the operating results. In its report of July 30th, 1919, in this matter, the Board found and concluded:

"That it will abrogate the surcharge heretofore allowed in so far as it affects the customers supplied under the uniform retail power and the elevator rates.

"That in all other respects the Board's report of February 27th, 1918, shall be and remain in effect."

In that report reference is made to the company's estimate for the year 1919, which indicated that with the continuance of the entire

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**Public Service Electric Co.—Modification of Rates.**

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surcharge and coal clause, the company would earn in that year over and above the amount for depreciation claimed by it as necessary and the usual eight per cent. dividend on its capital stock, a surplus of \$750,000. The Board's report further stated that an analysis of the monthly statements showing actual results of operation for the first six months of 1919 indicated that the surplus might exceed this amount.

The actual results for the entire twelve months of 1919, with abrogation of the surcharge from the uniform retail power and elevator rates, effective on September 1st, show that this surplus was a little over \$900,000, and in the year 1920, the company earned more than \$500,000 above that amount. The company's surplus, however, was not increased by these amounts, two-thirds of the surplus earned in 1919 being used to increase the rate of dividends on its capital stock from eight to ten per cent., and almost all of that for 1920 being distributed in dividends, in which year the rate was twelve per cent. The monthly reports filed by the company during the early part of 1921, indicating that the earnings for the current year will exceed those for 1920, the Board again, on its own initiative, called a hearing on August 3d, 1921, in the matter of the continuance of the twenty-five per cent. surcharge to the bills of its wholesale power and kilowatt-year customers, and to bills for refrigerator and break-down service, and the continuance of the coal clause by Public Service Electric Company. A number of hearings in the matter were held, the final one being on January 4th, 1922.

In Exhibit R-16, submitted by the company, are shown the actual operating results for the twelve months ending August 31st, 1921, and for the corresponding period of the preceding year, and in Exhibit R-11, is given the total amount of the surcharge revenue for the year ending August 31st, 1921, namely, \$952,859.05. In the first of these two exhibits the net income for 1921 is shown to be \$920,613.33 greater than in 1920, an increase about equal in amount to the entire surcharge revenue for the period.

The company has now filed reports of operations for both October and November, 1921, so that the actual results for eleven months of the current year are now before the Board. The company has also filed a statement giving the amount of revenue from the surcharge during each of the three months subsequent to August, 1921. The

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Public Service Electric Co.—Modification of Rates.

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monthly reports show that during the eleven months of the current year the company earned over and above its operating expenses (excluding general amortization), taxes and fixed charges, the sum of \$6,022,852.71. In December, 1920, the company's net income, omitting general amortization, was \$1,130,741.18, and inasmuch as during each of the eleven months of 1921, with one exception, the net income was greater than that of the corresponding month of 1920, the increase for October being approximately \$150,000 and more than \$200,000 in November, it would appear entirely reasonable to assume that the net income for December, 1921, will be at least \$1,000,000, making \$7,000,000 as the amount available for amortization, dividends and surplus during the entire twelve months of the year. On the basis of the monthly reports the total charges for general amortization for 1921 are estimated to be approximately \$2,700,000, which would leave as the amount available for dividends and surplus \$4,300,000, or \$1,500,000 more than the amount the company thought it necessary to earn at the time it made application for permission to impose a surcharge.

From the exhibits and statements filed by the company it is ascertained that the amount of the surcharge revenue for the twelve months ending November 30th, 1921, was not quite \$875,000. For the twelve months of 1921 it will probably not exceed this figure, inasmuch as during each of the past three months the surcharge revenue was less than in the corresponding month of 1920.

In the company's application made in the early part of 1918 for permission to impose a war surcharge, it sought, as above indicated, to increase thereby its revenue sufficiently to enable it to earn over and above its operating expenses, including an allowance for general amortization according to its regular rule, taxes and fixed charges a sum equivalent to eight per cent. on \$30,000,000 capital stock and a surplus in addition thereto of \$400,000. Since that time the company has not issued any additional capital stock, but in Exhibit R-15 it is stated that on December 31st, 1920, it was entitled to issue \$5,700,000 stock for uncanceled construction expenditures, by reason whereof the company asserts that a greater return should be allowed it in 1921 than in 1918.

In Exhibit R-21, which is a copy of the company's balance sheet as of August 31st, 1921, the total amount of fixed capital on that date is shown to be \$40,813,124.98, which is an increase over January 1st,

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Public Service Electric Co.—Modification of Rates.

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1918, of \$11,528,128.15. Of the latter amount, \$3,000,000 is covered by an issue of capital stock in 1918 forming part of the \$30,000,000 now outstanding, and \$2,750,726.32 by the increase in the amount of outstanding funded debt, leaving \$5,777,401.83 of the additions and betterments not yet capitalized. During the same period, however, the company's reserve for accrued amortization of capital increased from \$2,199,865.07 to \$9,725,317.93, which increase is considerably more than enough to cover all of the uncapitalized plant expenditures. For the purposes of the present case, therefore, the Board believes that the uncapitalized expenditures made by the company need not be considered.

In its report in this matter, dated February 27th, 1918, the Board stated:

"All things considered, we are of the opinion that an increase of \$1,000,000 will enable the company in 1918 to pay its rentals, to pay dividends of eight per cent. on its capital stock, and to appropriate to general amortization a sufficient sum under present conditions, even if the conditions throughout the year prove to be as unfavorable as the estimated of the company indicate."

Having allowed the surcharge for this reason, and it now being apparent from the record that the company is at the present time earning enough without the surcharge to pay its rentals, to pay dividends of eight per cent. on its capital stock, to appropriate an ample amount for amortization of fixed capital, as well as a substantial surplus, the Board is of the opinion that with the entire abrogation of the existing twenty-five per cent. surcharge to power bills the company will still have a sufficient net income to assure the continuance of safe, proper and adequate service, and to enable it to market its securities and thereby finance the necessary extensions required by the growth of its business.

The Board therefore finds and determines:

That it will abrogate all remaining twenty-five per cent. surcharges heretofore allowed, it having heretofore, in its report dated July 30th, 1919, abrogated the surcharge so far as it affects the customers supplied under the uniform retail power rate and the elevator rate. The abrogation of the war surcharge on bills of the remaining power customers will become effective with bills for the next month's sales after the date hereof.

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**Bor. E. Paterson—Change Name of Station from Dundee Lake to E. Paterson.**

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That in all other respects the Board's report of February 27th, 1918, shall be and remain in effect.

An order will issue, modifying the tariffs filed pursuant to the Board's report of February 27th, 1918, to conform to the above determination.

Dated January 4th, 1922.

### ORDER.

The Board of Public Utility Commissioners, having on January 4th, 1922, made and filed a report stating its findings of fact and conclusions thereon, which report by reference thereto herein is made part hereof,

HEREBY ORDERS tariffs which were filed with this Board pursuant to its report dated February 27th, 1918, "In the Matter of the Petition of the Public Service Electric Company for Increase in Electric Power Rates," be amended so that the surcharge of twenty-five per cent. (25%) be entirely eliminated therefrom, and that in all other respects the Board's report of February 27th, 1918, shall be and remain in effect.

These amendments to the tariffs required by this order shall become effective with the bills for the next month's sales after the date hereof.

Dated January 4th, 1922.

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### No. 959.

IN THE MATTER OF THE APPLICATION OF THE BOROUGH OF EAST PATERSON FOR CHANGE OF NAME OF STATION ON NEW YORK, SUSQUEHANNA & WESTERN RAILROAD FROM DUNDEE LAKE TO EAST PATERSON.

Application to change the name of a station is denied where the evidence shows that more confusion and inconvenience would exist if the change is made.

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**Bor. E. Paterson—Change Name of Station from Dundee Lake to E. Paterson.**

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*G. R. James*, for the New York, Susquehanna & Western Railroad.

*J. W. DeYoe*, for the Borough of East Paterson.

The chief ground relied upon by the applicant in support of its petition was that considerable confusion existed in the minds of shippers as to the identity of Dundee Lake with Dundee, another station, several miles away. The borough requests that the Railroad Company be compelled to change the name of the station in East Paterson, which is known as Dundee Lake, to East Paterson. It appears that the Borough was formerly known by the name of Dundee Lake and recently changed its name to that of East Paterson. The Railroad Company did not, however, change the name of the station.

Evidence was presented to show the confusion that existed in connection with shipments and several witnesses testified that shipments intended for them had been sent by the shippers to Dundee.

On the other hand, the Railroad Company's evidence tended to show that there would be at least as great confusion if the name of the station were changed to East Paterson because shippers would assume that East Paterson was a part of the City of Paterson and would accordingly send their shipments to Paterson. As a matter of fact, East Paterson is several miles away from Paterson and in another county. The railroad Company also showed that it would be a matter of considerable inconvenience in cases where shipments were sent by mistake to Paterson instead of East Paterson to forward such shipments to East Paterson. The movements back and forth over the main line, which are congested through the City of Paterson, in order to make the necessary connections for East Paterson, were testified to and a map presented as an exhibit was filed in the case.

The Board is of the opinion under all the evidence that more confusion and inconvenience both to shippers and consignees and to the Railroad Company would be likely to exist if the change of name prayed for by the applicant were directed. It will accordingly deny the application.

Dated January 26th, 1922.

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Somerville Water Co—Increased Water Rate.

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**No. 960.****IN THE MATTER OF FILING BY SOMERVILLE WATER COMPANY OF AN  
INCREASED WATER RATE SCHEDULE.**

1. In applying for approval of increased rates a water company estimates the value new of its property at present day prices as \$415,724. The amount of \$106,916 is deducted for accrued depreciation, leaving a present value of \$308,808. The value new based on pre-war prices for property acquired prior to 1916 plus additions since at the actual prices paid therefor is \$315,907. From this \$29,400 is deducted because of a thirty-inch main for which it is conceded a twenty-inch main might be substituted, leaving \$286,507.

2. If to the pre-war value allowances should be added for structural over-heads, going value and appreciation in consideration of excess of present day prices over pre-war prices and deduction made for accrued depreciation, the total value of the property would not be less than the \$308,808 claimed by the company as present value. This is accepted as the base on which rates should be allowed.

3. The Board does not accept the company's contention that an eight per cent. return should be allowed. If a company has a long record of efficient operation, during which it has earned eight per cent. or more upon the property devoted to the public service the Board is inclined to allow a higher rate of return than to a company whose history shows it has been rarely able to earn an eight per cent. return under rates fixed by itself and admittedly satisfactory to it.

4. The Board does not construe the statute under which it has been created or the decisions of the courts to impose the duty of fixing a uniform rate of return for all utilities. To do so would be in a sense a discrimination against the utility which has been efficiently managed and operated and would reward beyond its deserts the poorly managed utility or one less fortunately situated with respect to the size of the community it serves and the growth and development of its business.

5. Taking into consideration the recent history of the company, the Board holds that the rate of return the company should be permitted to earn upon the valuation accepted should be slightly in excess of seven per cent.

6. Customers of the following classes should be discontinued as flat rate customers and served through meters: barber shops, bake shops, butcher shops, drug stores provided with soda fountains, any store having use for water other than for ordinary toilet facilities for private use, churches, public buildings and water motors.

7. A schedule of rates is authorized which is estimated will yield the return indicated and permit of reasonable enlargements and extensions.

*Hugh K. Gaston and Foster M. Voorhees, for the Petitioner.*

Somerville Water Co—Increased Water Rate.

*F. A. McCullough and Josiah Stryker* (of Lindabury, Depue & Faulks), for Somerville.

*Frank L. Cleary*, for Raritan.

The increased rates which are scheduled in this application were filed on July 2d, 1921, to become effective on September 1st, 1921. Hearings were held on October 6th, October 27th and November 9th, 1921.

The following tabulation shows the present and proposed rates of the petitioner:

	Flat rates per year	
	<i>Present</i>	<i>Proposed</i>
Kitchen sink .....	\$6.00	\$9.00
Faucets in other rooms (Present schedule states this charge will not be made where there is a charge for bath or closet) .....	2.00	3.00
Water closet .....	4.00	6.00
Each additional water closet .....	2.00	3.00
One bath tub .....	4.00	6.00
Bath tub and water closet .....	7.00	10.00
Each additional tub .....	2.00	3.00
One set of wash tubs, not exceeding three .....	....	3.00
Each additional set of tubs .....	....	2.00
Lawn sprinkler or other hose connections outside of building .....	....	6.00
Lawn sprinkler in connection with kitchen use .....	4.00	....
Lawn sprinkler without kitchen use .....	8.00	....
Private garages .....	....	5.00
Private stables not exceeding two horses .....	5.00	7.50
Each additional horse .....	1.00	3.00
Barber shops and bake shops .....	8.00	12.00
Drug stores .....	8.00	10.00
Churches and public buildings .....	Special	Same rates as private houses
Public schools, hospitals, public fountains, fire departments and street sprinkling in Somerville .....	Free	Same rates as private houses
Water motor for churches .....	Special	37.50
Fire hydrants, public and private .....	15.00	30.00
Sewer flush tanks .....	12.00	18.00
Urinal self-acting drip .....	4.00	....
Stores, for basin and sprinkling floors .....	4.00	....
Slaughter houses .....	15.00	....
Livery stables .....	25.00	....

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 Somerville Water Co—Increased Water Rate.
 

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## PRESENT METER RATES PER 1,000 CUBIC FEET.

5,000 cubic feet or less per month .....	\$1.50
(Corresponds to 15,000 cu. ft. per quarter.)	
Over 5,000 cubic feet and less than 10,000 cubic feet per month .....	1.35
(( corresponds to 15,000 to 30,000 per quarter.)	
Over 10,000 cu. ft. and less than 15,000 cubic feet per month .....	1.20
(Corresponds to 30,000 to 45,000 per quarter.)	
Over 15,000 cu. ft. and less than 20,000 cu. ft. per month .....	1.12
(Corresponds to 45,000 to 60,000 per quarter.)	
Over 20,000 cu. ft. and all in excess .....	.75
(Corresponds to 60,000 and over cubic feet per quarter.)	

## PROPOSED METER RATES PER 1,000 CUBIC FEET.

First 6,000 cubic feet per quarter .....	\$2.25
Next 6,000 cubic feet per quarter .....	2.00
Next 6,000 cubic feet per quarter .....	1.75
Next 6,000 cubic feet per quarter .....	1.50
All over 24,000 cubic feet per quarter .....	1.25

Minimum rate, \$2.50 per quarter. Discount of 10 per cent. will be allowed on all bills for metered water if same is paid within ten days of date of mailing or presentation.

The above rate is to be applied to each installation or plant. The consumption of water by the same consumers in different plants or localities will not be combined.

The rate schedule as given in the petitioner's annual report states also as follows:

"The following rebates on metered bills will be allowed, provided such bills are paid on or before the 10th day of the month, as noted on the bill, but no rebate will be allowed in case the consumer is in arrears for previous bill.

"On bills amounting to not less than five dollars and not more than twenty-five dollars in any one month, a rebate of five per cent. for such month, and on all bills amounting to more than twenty-five dollars in any one month a rebate of ten per cent. for such month."

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Somerville Water Co—Increased Water Rate.

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## DESCRIPTION AND VALUE OF PROPERTY USED AND USEFUL FOR WATER SERVICE.

The petitioner's plant is located in Raritan Township, and the company secures its water supply from the Raritan River, water being then filtered and pumped to a standpipe located immediately adjacent to its plant, from which point the water is then distributed. Excepting in periods of low water, water power is available for pumping, so that the operation of this company requires the use of steam power for a part of the year only.

The sale of water was first commenced in the year 1882, and the company has experienced a gradual growth since that time. The company's annual reports state that the present rates charged for domestic service have been in effect since 1906, and Exhibit I for Somerville shows that the rates for fire hydrants have been in effect since 1911. At that time a contract was entered into between the petitioner and the Borough of Somerville, in which the company's rates for fire service were fixed for the following ten years, and the contract also specified that the rates for domestic service then in effect should continue. As may be noted from the dates given above, the present domestic rates have been practically unchanged in the past sixteen years, and the rates for fire service for the past eleven years.

Three appraisals were submitted by the petitioner's engineer, giving the value of the company's property on different bases, the inventory apparently being taken as of December 31st, 1920. The first appraisal submitted as Exhibit P-2 gave the valuation of the property based on prices somewhat less than those prevailing as of May 31st, 1921, with depreciation deducted. Exhibit P-5 gives the value new of property on the basis of pre-war prices (no depreciation deducted). Exhibit P-6 gives the valuation of the property new with prices prevailing as of October 21st, 1921 (no depreciation deducted), which valuation is approximately thirteen per cent. less than that given in Exhibit P-2. Exhibit P-7 gives the same value new as in Exhibit P-6, with depreciation deducted. Testimony was offered by the petitioner's expert that he would find the present value on the pre-war basis by deducting the same percentage of accrued depreciation as computed in the other two appraisals.

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Somerville Water Co—Increased Water Rate.

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In connection with plans for developing the Raritan River to secure a larger supply of water for the Elizabethtown Water Company, a thirty-six-inch line was constructed in parts of Raritan and Somerville, but these plans were not completed, due to litigation. According to present plans, a supply of water is to be obtained at the confluence of the Raritan and Millstone Rivers, and the title for part of the real estate required at this site now stands in the name of the Somerville Water Company, and is represented on the asset side of the company's books as an investment and on the liability side as notes payable.

The thirty-six-inch main just referred to now forms an integral part of the Somerville Water Company's system, but it was conceded by the petitioner that this main is larger than is necessary for the supply of Somerville, and that a twenty-inch main might be substituted therefor. We cannot agree with the contention of the City of Somerville that because there is a larger main (whether it be a 36-inch or a 20-inch transmission main), that the ten-inch main which formerly served as the only transmission main is unnecessary. This main serves useful purposes. As is well known, Fire Underwriters advise duplicate transmission mains, preferably installed along different routes, so that in case of accident to one there may be another source of supply, and in order that there may be a better circulation of water and a more uniform pressure. We shall allow to the company, therefore, the value of the ten-inch transmission main in addition to a main of twenty inches, which we believe would be of sufficient and proper size for the City of Somerville with its prospective needs in the near future, this twenty-inch main to be substituted for the purposes of this case in the place of the thirty-six-inch main now installed.

The following schedule shows:

First. The value new of the property on the basis of prices prevailing as of October 21st, 1921, as testified to by the petitioner's engineer, Mr. Mundy—that is to say, on present-day prices.

Second. The value new based on pre-war prices—as estimated in Exhibit P-5—for the property acquired prior to 1916, plus additions since that time at the actual prices paid therefor as shown in the petitioner's annual reports.

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Somerville Water Co—Increased Water Rate

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	A. Oct. 21st, 1921. Appraisal Co. Est.	B. Value new—Pre-war to 1916 plus actual cost to Dec. 31st, 1920.
Value new, material, labor and land.....	\$458,789	\$315,907
Net deduction to substitute 20-inch main for 36-inch main .....	43,065	29,400
Value new with 20-inch main .....	<u>\$415,724</u>	<u>\$286,507</u>
Over-head added to structure and equip- ment .....	None	
Total value new, with present day prices,	<u>\$415,724</u>	
Deduct accrued depreciation .....	<u>106,916</u>	
Present value .....	<u>\$308,808</u>	

If to the pre-war value shown above there should be added allowances for structural overheads, going value and something for appreciation of property in consideration of the excess of present-day prices over pre-war prices, and deduction made for accrued depreciation, the total value of the property would not be less than the \$308,808 testified to by the company's expert as the depreciated value of the physical property as of October 21st, 1921. It will also be noted that in the company's appraisal of \$308,808 no claim is made for going value, overheads or working capital. As the company's brief, however, states that it is satisfied that the Board should take this estimate of the physical value of the property, namely, \$308,808, and waives any claim for intangibles and overheads in this case, the Board accepts this amount as the base upon which rates shall be allowed.

The Board, however, does not agree with the contention of the company that an eight per cent. rate of return should be allowed it. There are cases in which the Board allows an eight per cent. return, but those are cases in which special circumstances call for a rate of that amount. If, for instance, a company has a long record of efficient operation during which it has earned a yield of eight per cent. or more upon the property developed to the public service, the Board is inclined to allow such company a higher rate than it will allow to a company whose history shows that it has rarely been able to earn an eight per cent. return under rates fixed by itself and admittedly satisfactory to it. So, too, it must not be supposed that because the Board has at some time or other seen fit to establish an eight per cent. rate of re-

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Somerville Water Co—Increased Water Rate.

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turn for a utility which theretofore had been taking from the public a much higher rate of return, such decision of the Board is to be taken as a precedent by another utility, which is not earning and rarely has earned an eight per cent. return, upon which to make a claim that it shall be lifted to this level of net earnings. We do not construe either the statute under which this Board has been created or the decisions of the courts to impose upon us the duty of fixing a uniform rate of return for all utilities. To do so would be, in a sense, a discrimination against the utility which has been efficiently managed and operated and would reward beyond its deserts the poorly managed utility or one less fortunately situated with respect to the size of the community which it serves and the growth and development of its business. To place the latter utility on a par with the former would also in many a case be an injustice to the public which it serves.

Taking into consideration the recent history of this company, we believe that the rate of return which it should be permitted to earn upon the valuation which we have accepted for that purpose is approximately the same rate as we have heretofore allowed in other cases, namely, slightly in excess of seven per cent. We might add that in our judgment there is more uniformity of demand for service and less hazard in the case of water companies than in that of some other public utilities. The return on capital used and useful for water supply purposes is accordingly taken as \$22.400. In making this allowance we have in mind the present-day cost of obtaining capital.

## GENERAL AMORTIZATION AND OTHER OPERATING EXPENSES.

The amount estimated in Exhibit P-4 for amortization is \$6,323, which amount is based upon the values estimated in Exhibit P-2, which gives the value of the property on a higher basis of prices than those accepted by the Board herein as representing a fair value of the property. If this amount were reduced proportionately with the value which the petitioner now relies upon and which the Board accepts, this amount would be considerably less. The annual charge for this purpose as made by the company during the past few years has been somewhat higher than is now claimed by the petitioner as being necessary, the total being slightly over \$8,000 for each of the years from 1918 to 1920, inclusive. The value new of structures and equipment,

Somerville Water Co—Increased Water Rate.

corresponding to the present value of all property used and useful, amounting to \$303,800 is slightly in excess of \$400,000, on which amount the Board will allow a charge for general amortization of approximately one and one-half per cent. of the value new, or \$6,000.

The operating expenses, excluding a charge for general amortization for the years 1918 to 1920 and the amount estimated for the twelve months following the application of the new rates as derived from Exhibit P-3, are as follows:

1918 .....	\$23,182.78
1919 .....	26,767.72
1920 .....	27,520.10
Under proposed rates .....	27,814.00

Inasmuch as the pumping plant of the Somerville Water Company is operated in part by water power and part by steam pumps, the future cost of fuel is a rather uncertain item. During the year 1921. the cost of fuel per ton has been considerably less than for the year 1920. The petitioner's engineer stated, however, that due to the continued dry weather during the year 1921, the necessity for the use of coal had been increased and would approximately, in his opinion, equal the same total expenditure as for the year 1920. An exceptionally dry year should hardly be taken as a basis for this estimate, nor the total expenditure during a year of abnormally high cost. It is considered that a fair allowance would be made for all operating expenses if the total (excluding general amortization) is taken at an amount of \$27,100.

REVENUE REQUIRED.

The total revenue required on the basis as indicated above, therefore, will be as follows:

Return on capital .....	\$22,400
General amortization .....	6,000
Other operating revenue deductions .....	27,100

Total .....	\$55,500
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The amount of revenue estimated to be received with the proposed new rates as given in Exhibit P-3, is as follows:

Metered private service .....	\$8,250
Unmetered private service .....	47,151
Municipal service .....	5,342
Additional from new consumers (either metered or unmetered) .....	1,500
Miscellaneous private service .....	60

Total .....	\$62,303
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Somerville Water Co—Increased Water Rate.

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The revenue required as found above is approximately ninety per cent. of this amount. The filed rate schedule of the company should therefore be modified to provide a lesser amount of revenue than is indicated in the company's estimate.

FLAT RATES.

Customers of the following classes should be discontinued as flat-rate consumers, and they should be served through meters: barber shops, bake shops, butcher shops, drug stores provided with soda fountains, any store having use for water other than for the ordinary toilet facilities for private use, churches and public buildings and water motors.

The schedule as filed by the company and the schedule approved below include charges for items which have heretofore been furnished free by the petitioner. Provision is also made in the schedule below for a minimum charge for flat-rate consumers. In view of the fact that the number of fixtures of each class for which charges are to be made was not furnished, it is rather uncertain just what total revenue might be received by the company under the schedule of rates proposed by it or the schedule which is approved herein. The schedule as filed by the company provides for all flat-rate consumers an increase of approximately fifty per cent. A comparison with the flat-rate schedules of other companies and those which have been approved by the Board in a number of cases heretofore indicates the advisability of rearranging this schedule to a certain extent, so that the percentage of increase applied to the different classes of service is not entirely uniform.

By a comparison with the present schedule it will be noted that flat rates for domestic consumers have been increased on the average approximately one-third, in addition to which charges will be made for some service which has heretofore been furnished free.

A charge for fire hydrants as given in the proposed schedule represents an increase of from \$15 to \$30 per hydrant, and in a schedule approved by the Board has been increased to \$25. Analyses of the costs for fire service which have been made in a number of cases indicate that the reasonable cost of such service is not less than the charge per hydrant which is provided in the schedule, which is herein approved.

## Somerville Water Co—Increased Water Rate.

## METERED RATES.

The schedule of rates for metered service appears to be reasonable with the exception of the rates provided for the first block, which, in the opinion of the Board, should be divided and the first 1,000 cubic feet per quarter charged at a higher rate and the minimum charge per year for the smallest size meter increased to \$3 per quarter in order to make the meter rates more nearly comparable with the flat rates. The change as indicated in the metered rate schedule will probably not appreciably increase the bills of the present metered customers over the rates provided by the proposed schedule, but will make a more equitable charge as between customers on flat rates and those on metered rates. The schedule as approved below also provides a minimum charge based on the size or capacity of the meter, a higher minimum charge being established for larger than for the smaller meters.

## CONCLUSIONS.

The Board therefore finds and determines:

1. That the rates filed by the petitioner are unjust and unreasonable, and are disapproved.
2. That the petitioner should be afforded relief by increased rates.
3. That the company may file the following schedule of rates effective with sales of water for the quarter ending March 31st, 1922.

## A. SCHEDULE OF YEARLY FLAT OR FIXTURE RATES.

1. *Domestic Service*—

For one kitchen sink, hot and cold water .....	\$8.00
For each basin or additional sink, hot and cold water .....	2.50
Water closet .....	5.00
Additional water closet .....	2.50
Bath tub .....	4.00
Additional bath tub .....	2.50
One set of laundry tubs, not exceeding three, per set .....	3.00
Each additional set of laundry tubs .....	2.00
Lawn sprinkler or other hose connection for outside use .....	5.00
Private garages .....	5.00
Private stables, not exceeding two horses .....	6.00
For each additional horse .....	2.00
Minimum charge for flat rate service, \$2.50 per quarter.	

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**Somerville Water Co—Increased Water Rate.**

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Premises where unusual conditions of use prevail, requiring other than ordinary toilet facilities for private use, such as railroad stations, hotels, large boarding houses, clubs, saloons, public laundries, public garages, bathing establishments, stock farms, liverys, public stables, greenhouses, stores, bakeries, barber shops, churches, schools, public buildings, public drinking fountains, etc., will only be served through a meter.

**2. Municipal Service—**

Fire hydrants, public or private .....	\$25.00
Sewer flush tanks .....	16.00

Bills for flat or fixture rate service are payable quarterly in advance.

**B. SCHEDULE OF METER RATES.**

For the first	1,000 cu. ft. per quarter,	\$2.75 per M cu. ft.
For the next	5,000 cu. ft. per quarter,	2.25 per M cu. ft.
For the next	6,000 cu. ft. per quarter,	2.00 per M cu. ft.
For the next	6,000 cu. ft. per quarter,	1.75 per M cu. ft.
For the next	6,000 cu. ft. per quarter,	1.50 per M cu. ft.
All in excess of	24,000 cu. ft. per quarter,	1.25 per M cu. ft.

The minimum charges for metered service will be as follows:

For $\frac{1}{2}$ " or $\frac{3}{8}$ " meter,	\$3.00 per quarter.
For $\frac{3}{4}$ " meter,	5.00 per quarter.
For 1" meter,	8.00 per quarter.
For $1\frac{1}{4}$ " meter,	11.00 per quarter.
For $1\frac{1}{2}$ " meter,	15.00 per quarter.
For 2" meter,	20.00 per quarter.
For 3" meter,	40.00 per quarter.
For 4" meter,	65.00 per quarter.
For 6" meter,	110.00 per quarter.

A discount of 10 per cent. will be allowed on all bills for metered service if the same are paid within 10 days from date of mailing or presentation.

The above rates are to be applied to each customer as defined in the Board's recommended "Rules and Regulations to be Adopted by Water Utilities."

As compared with the rates charged by other water utilities for corresponding service, the above schedules are considered reasonable. The amount of revenue to be derived under the new rates from charges for services which have previously been rendered free is rather uncertain, but it is believed that the total revenue to be obtained will approximately equal the amount which has been indicated above as necessary, and that the company will receive sufficient revenue to permit of the reasonable enlargement and extension of its service as required.

Dated January 27th, 1922.

## Commonwealth Water Co.—Increase in Rates.

## No. 961.

## IN THE MATTER OF THE APPLICATION OF THE COMMONWEALTH WATER COMPANY FOR FURTHER INCREASE IN RATES.

1. To hold that when the Board fixes a rate of return that rate must be earned or the deficits made good by the allowance of higher rates is to mortgage the future to the company. All that a Board can be expected to do is to fix what is a fair rate under the conditions existing at the time. It should not be held as a guarantor of the rate nor of stable conditions in the business.

2. After full consideration of the testimony in this case and taking into account the reducing cost of money at the present time, the Board is of the opinion that a net return of the same amount previously allowed will bring to the company a fair net return.

3. The gross revenue under present rates of \$371,703 for the twelve months ending September 30th, 1921, includes the revenue derived under the twenty per cent. increase granted by the Board in response to the company's petition for a twenty-five per cent. increase in rates in 1920. The net revenue for the twelve months amounted to \$128,451.68, which equals about 6.1 per cent. on the rate base of \$2,100,000.

4. Expenses in connection with investigations of rates should not be included as a proper cost in any one year. It would appear that this item of cost should be charged uniformly throughout a period of seven years.

5. The adoption of uniform rate schedules applicable throughout the entire territory served by the company is proper and is not unduly preferential or unduly discriminatory in favor of or against any municipality.

6. The schedule filed by the company is based upon the assumption that an increase above the original basic schedule of about 31.7 per cent. is needed. The Board is of the opinion that a gross increase of about 24.6 per cent. or 4.6 per cent. above the 20 per cent. allowance of 1920 is all that is required to meet those parts of the company's claims which merit consideration. This increase is necessary to enable the company to finance improvements and will yield something over 7 per cent.

*William M. Wherry*, for the Petitioner.

*Charles H. Stewart*, for the Town of Irvington.

*Corra N. Williams* and *E. G. Pringle*, for the City of Summit.

*William Byrd*, for the Township of Milburn.

*Samuel D. Williams*, for the Township of South Orange.

*Borden D. Whiting*, for the Town of West Orange.

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Commonwealth Water Co.—Increase in Rates.

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On October 27th, 1920, the Board filed a report fixing revised schedules of rates applicable to the business of the Commonwealth Water Company. In view of the fact that costs for labor and material were constantly changing, the report contained the following:

“In view of the stipulations of counsel, further hearing will be adjourned until the last Thursday in April, 1921, prior to which time the company is required to file its reports for the quarters ending December 31st, 1920, and March 31st, 1921, respectively, such reports to correspond to the form for detailed reports of income and surplus as shown in the Board’s form for annual reports for water utilities.”

“That report was the outcome of hearings held by the Board upon the question as to the justness and reasonableness of a proposed increase in its rates, filed by the Commonwealth Water Company on June 24th, 1920, involving a horizontal increase of twenty-five per cent. in all parts of its schedule. The Board in that report allowed a horizontal increase of twenty per cent. instead of the twenty-five per cent. applied for.

On April 8th, 1921, the township counsel for South Orange Township wrote to the Board calling its attention to the fact that the probative period during which the horizontal increase or surcharge of twenty per cent. was to be tried would shortly expire.

As a result of this letter, notices were sent out calling a hearing on April 28th, 1921. For the convenience of counsel, the hearing was not held until June 2d, 1921. At that time certain very large additions were being made to the plant and property of the company, and objections were raised to the consideration by the Board of this matter until the improvements had been completed. The matter was therefore laid over to September 15th, 1921, and later continued to October 13th. Further testimony was taken on November 3d and on November 17th.

Since the matter came up last April, the improvements and additions have been completed, namely, the constructions of the reservoir and booster pumping station in West Orange, and the sixteen-inch transmission line bringing the water from the Canoe Brook Plant to the high level reservoir in West Orange. The result of these improvements is to provide for West Orange an ample supply of well water

## Commonwealth Water Co.—Increase in Rates.

and to remove, so far as these matters are concerned, all question of inadequacy or insufficiency of the supply.

On May 13th, 1921, the water company filed with the Board a statement that upon further hearing of this matter it would present evidence showing that the rates put into effect tentatively had failed to produce sufficient revenue to meet the operating expenses and taxes and provide a fair return upon the value of the property.

At the hearing in June, it was held that the water company must file the changes which it proposed in its rate schedule as a basis for the hearing to be held at a later date. This schedule was filed September 23d, 1921, and provided as follows:

(1) The territory supplied by the company shall be divided into two service districts, known as the low service and the high service district respectively. The high service district shall comprise that district containing customers supplied from the Mount Pleasant Booster Station, located at the corner of Mount Pleasant and Gregory Avenues, in the Village of West Orange. The lower service district shall comprise all the rest of the territory supplied by the company.

(2) The present rates shall be modified in accordance with the following table:

*"Fire Service:*

Hydrant charge, \$2.50 per hydrant per quarter.

Inch-foot charge, 0.0018 per inch-foot per quarter.

*General Water Service:**Fixed service charges:*

$\frac{1}{2}$ " or $\frac{5}{8}$ " meter .....	\$1.25 per quarter.
$\frac{3}{4}$ " meter .....	2.00 per quarter.
1" meter .....	4.50 per quarter.
1 $\frac{1}{2}$ " meter .....	11.00 per quarter.
2" meter .....	15.00 per quarter.
3" meter .....	36.00 per quarter.
4" meter .....	55.00 per quarter.
6" meter .....	100.00 per quarter.

*Proportional service charges or meter rates:**Low service district:*

First 40,000 cubic feet per year	\$2.30 per M. cubic feet.
Next 360,000 cubic feet per year	1.80 per M. cubic feet.
Next 3,600,000 cubic feet per year	1.40 per M. cubic feet.
Over 4,000,000 cubic feet per year	1.15 per M. cubic feet.

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Commonwealth Water Co.—Increase in Rates.

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## High service district :

First	40,000 cubic feet per year	\$3.40 per M. cubic feet.
Next	360,000 cubic feet per year	2.90 per M. cubic feet.
Next	3,600,000 cubic feet per year	2.50 per M. cubic feet.
Over	4,000,000 cubic feet per year	2.25 per M. cubic feet.

At the end of each quarter the company shall have made up from its records the statements which will be filed with the Board and will determine the result of the operation for that quarter. If the net revenue of the company for any quarter shall exceed 7.8 per cent. return on the fair value of the company's property the excess will be credited by the company proportionately among its consumers on the bills rendered for service for the succeeding quarter. The determination shall be made in accordance with the following discount table :

Actual Gross Revenue per Quarter	Discount corresponding to an actual net return per quarter which exceeds a 7.8% return by				
	\$2,000	\$4,000	\$6,000	\$8,000	\$10,000
\$100,000 .....	2.00%	4.00%	6.00%	8.00%	10.00%
110,000 .....	1.82	3.64	5.45	7.28	9.09
120,000 .....	1.67	3.33	5.00	6.67	8.33
130,000 .....	1.54	3.08	4.62	6.15	7.60
140,000 .....	1.43	2.86	4.29	5.72	7.15
150,000 .....	1.33	2.67	4.00	5.33	6.67

This amendment shall go into effect October 1st, 1921.

The rate schedules of the company heretofore filed shall remain in effect except as herein modified.

## COMMONWEALTH WATER COMPANY."

If the schedule of rates new proposed by the company is to be made effective, the result will be to make a permanent increase in all the steps of the basic schedule of more than thirty per cent. This the company feels will return to it the net revenue which it claims the Board had decided in its previous report was necessary in order to properly finance the company and thus enable it to perform its public duty.

The company has persistently stated throughout the present hearings, that the Board which filed the report of 1920, held therein, that the company was entitled to a return of 7.8 per cent. upon its property. We do not interpret that Board's report as guaranteeing that rate of return.

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Commonwealth Water Co.—Increase in Rates.

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Objections were made by representatives of certain of the municipalities to this schedule, although some of the municipalities declined to oppose it. The Town of Irvington objected to it on the ground that conditions were not yet stable and no permanent determination of the rates ought to be made. In addition, Irvington contended that the schedule fixed for that town was improperly discriminatory against it, thus favoring other municipalities. The schedules as developed by the Board in 1918 were uniform throughout all the territory then served by the company. If the Board were to agree with the contention of the Town of Irvington, it would be necessary to fix for Irvington a different schedule of rates from that applicable in other parts of the territory, providing, of course, that the cost of serving the different areas was not the same.

The duty before the Board at the present time is to determine:

(1) Whether or not the company is entitled to collect a greater or less amount than that found reasonable by the Board in its report of October 27th, 1920.

(2) Whether the Town of Irvington has been unfairly treated by the fixation of a uniform schedule of rates throughout the entire territory.

(3) The proper basis of charging for service to the high level district of West Orange.

(4) Whether the old schedule should be continued with a surcharge of a greater or less percentage than that now being charged, or whether a new schedule on a permanent basis with provisions for adjustment if net revenues increase beyond those anticipated shall be allowed.

#### VALUATION.

With regard to the first point, we will take up the valuation of the property. The value of this property is set forth in Table "A" submitted by the company in Exhibit P-1. The figures used in this table have all been checked jointly by an expert representing the Board and an accountant representing the company.

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Commonwealth Water Co.—Increase in Rates.

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Table "A" gives the rate base as of January 1st, 1921, as.....	\$2,080,654
Additions since that date, approximately .....	\$49,750
Increase in depreciation reserve, same period .....	15,000
Net additions .....	34,750
Basis for rates .....	\$2,115,404

## COST OF MONEY.

In the report of the Board dated October 27th, 1920, it is said that what was needed at that time was a net return of approximately \$152,500. Incidentally, that net return bore a certain percentage relationship to the basis of values at that time. The company's present application is based on the fact that instead of obtaining the net income which the old Board thought proper, the net income only amounted to approximately \$128,000. The failure to obtain the amount estimated by the Board was not the fault of the Board. To hold that when a board fixed a rate that that rate must be earned or the deficits made good by the allowance of higher rates is to mortgage the future to this company. All that a Board can be expected to do is to fix what is a fair rate under the conditions existing at the time. It should not be held as a guarantor of the rate nor of stable conditions in the business. Doubtless, much may be said in favor of a stabilized rate in normal times, but it would have been unwise, in our opinion, if the Board had fixed such a rate under the transitory circumstances existing in 1920. After full consideration of the testimony in this case and taking into account the reducing cost of money at the present time, the Board is of opinion that a net return of the same amount allowed by the Board in the report referred to will bring to the company a fair net return.

## EARNINGS AND EXPENSES.

The extent to which the company has been able to earn the net return allowed by the Board is indicated in the following table:

Commonwealth Water Co.—Increase in Rates.

COMPARISON OF REVENUE RECEIVED WITH THAT REQUIRED TO YIELD A RETURN OF 7.8 PER CENT. TWELVE MONTHS ENDING SEPTEMBER 30TH, 1921.

Item	Present Rates	Claimed by Company as Fair Rates
(1)	(2)	(3)
Gross revenue .....	\$371,703 (a)	\$405,543 *
Operating expenses, taxes and depreciation..	243,251 (b)	243,252
Net Return .....	\$128,452	\$162,291 (c)
(a) Gross revenue, nine months ending June 30th, 1921 (Table No. E-4.) .....		\$274,855
Operating revenue, quarter ending September 30th, 1921 (Schedule No. 1-F.) .....		95,859
Net non-operating income, quarter ending September 30th, 1921 (Schedule No. 3-F.) .....		991
Gross revenue, twelve months ending September 30th, 1921....		\$371,703
(b) Total operating revenue deductions:		
Nine months ending June 30th, 1921 (Schedule No. 2-D.),		\$181,221
Quarter ending September 30th, 1921 (Schedule No. 2-F.),		62,031
Twelve months ending September 30th, 1921 .....		\$243,252

(c) Net return under fair rates is based on the rate base of \$2,080,654, as of January 1st, 1921 (See Table A), and equals:  $\$2,080,654 \times 0.078 = \$162,291$ .

Valuation as a basis for rates for the year 1921 or for the twelve months ending September 30th, 1921, will be higher than the basis as of January 1st, 1921. It therefore follows that the net return which it is anticipated will result from the proposed rates will fall short of 7.8 per cent. on the rate base applicable for the calendar year 1921. As the proposed rates are only expected to produce the amount of \$403,796 gross revenue, the estimated net return, other things being equal, is only \$160,544. The rate base for the twelve months ending September 30th, 1921, is approximately \$2,100,000, and the anticipated net income is approximately 7.64 per cent.

\* The amount of \$405,543 is obtained by adding together the two items below it, and is in excess of what the company's proposed rates are expected to produce.

In arriving at this conclusion, it will be noted that we have available the actual results to the company for a period of one year under the existing schedule with its twenty per cent. increase allowed by the Board in October, 1920. The gross revenue of \$371,703, under present rates, includes the revenue derived under the twenty per cent. increase granted by the Board to the company in response to its petition for a twenty-five per cent. increase of rates in 1920.

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Commonwealth Water Co.—Increase in Rates.

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The operating revenues for the twelve months ending September 30th, 1921, have been as follows:

Metered private service .....	\$298,971.84
Unmetered private service .....	319.47
Service to other water supply systems .....	3,446.76
Municipal water service, metered .....	\$7,453.22
Municipal water service, unmetered .....	54,181.91
	<hr/>
	61,635.13
Miscellaneous water service .....	2,084.18
	<hr/>
Total sales of water .....	\$366,457.38
Miscellaneous operating revenue .....	1,447.15
	<hr/>
	\$367,904.53
Non-operating revenue .....	3 798.49
Total gross revenue .....	<hr/>
	\$371,703.02
During the corresponding period the operating expenses have been as follows:	
Water supply expenses .....	\$91,632.97
Maintenance .....	45,982.35
General and miscellaneous expenses .....	33,475.08
	<hr/>
Total operating expenses .....	\$171,090.40
Taxes .....	71,795.12
Uncollectible water bills .....	365.82
Total operating revenue deductions....	<hr/>
	\$243,251.34
	<hr/>
Net income .....	\$128,451.68

This equals about 6.1 per cent. return on the rate base of \$2,100,000.

The Town of Irvington employed a consulting engineer to make a critical examination and testify as to the reasonableness of the company's operating expenses, similar testimony by the same witness having been submitted at the time the case was originally heard by the Board. Testimony of this witness was to the effect that certain savings might be possible and that certain items were not properly chargeable and payable from the gross revenue. As a result an examination was made jointly by the Inspector of the Board and the Special Accountant employed by the company. The result of this examination indicates to the Board that the savings in operation anticipated by the witness referred to have not eventuated. The books of this company have been examined.

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Commonwealth Water Co.—Increase in Rates.

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With the exception of the Canoe Brook Pumping Station, the property appears to be in excellent operating condition, and the conditions of operation appear to be on an economical and efficient basis. With regard to the Canoe Brook Pumping Station, this plant has been for some time undergoing a very considerable transformation. One new unit has been installed and much remains to be done involving additional investment in order that the building itself may be made permanent and fire-proof. Additional wells have been driven and others are to be installed within the near future. It may well be that upon the final installation of the new pumps and of the new method of obtaining water from the wells, the intention of which is to safeguard the collecting sources against pollution, that the costs of operation and production per million gallons of water delivered will be lower than at the present time. To obtain this lower cost, however, additional investment is necessary, the exact amount of which cannot now be determined. The effect on the net income of the company is therefore problematical, and in the opinion of the Board the best basis upon which the rates can be determined at the present time is the operating expenses which this company has already been called upon to pay during the recent past, particularly during the period in which all of the water supplied by it has been obtained from its own plants.

With regard to the economy in operation, an examination of the testimony develops the fact that the company is using the lowest priced coal obtainable and is taking full advantage of a contract under which screenings and refuse from the Lackawanna coal pockets, in Summit, are obtained. This coal requires special grates, but appears to be giving satisfactory service under present conditions, resulting in a considerable saving in cost of fuel.

The expert for the municipalities submitted blue-prints containing certain statistics for the year 1920, comparing the operating data of a number of the larger New Jersey water companies. In this table the number of consumers, the value of the water plant investment, and the total output in thousand gallons are each taken at one hundred per cent. for the Commonwealth Water Company, and the relation of the corresponding items referring to the other companies is stated in percentage. A study of this table indicates that the amount of business enjoyed by the Commonwealth Water Company, all things con-

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Commonwealth Water Co.—Increase in Rates.

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sidered, bears a favorable relation to the corresponding amount of business enjoyed by other companies. Considering the output of water in proportion to the investment and the investment in proportion to the number of consumers, there does not appear any basis for serious criticism of the general efficiency in the operation or in the investment of the Commonwealth Water Company.

With regard to the expenses in connection with the investigation of rates, while such expenses must be made by the company from its ordinary revenues, they should not be included as a proper cost in any one year. Under all the circumstances, it would appear that this item of cost should be charged uniformly throughout a period of seven years.

An adjustment must also be made because of the different method of supplying the water for West Orange. During the year 1920, during which all water supplied to West Orange was purchased, the price paid to the Montclair Water Company was \$25,383. The average price per thousand gallons was 9.1 cents. The amount of water purchased in 1920 was 278.88 million gallons. The cost of producing water at Canoe Brook in 1920 was 7.0 cents per thousand gallons. At this rate the cost at Canoe Brook for producing the water required for West Orange would involve a gross saving of \$5,859. The operating expenses for the twelve months ending September 30th, fully account for this saving. The following further deductions should be made from the operating revenue deductions for the purpose of this report:

(1) For federal tax .....	\$1,670	
(2) Readjustment of rate case expense .....	1,500	
(3) Reduction to average of pump repairs .....	4,000	
	<hr/>	
	\$7,170	
Gross revenue .....	<hr/>	\$371,703
Revenue deductions (from company's tables) ..	\$243,252	
Adjustment (by the Board) .....	7,170	
	<hr/>	246,082
		<hr/>
Net revenue (which is 6.45 per cent. on \$2,100,000) .....		\$135,621

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Commonwealth Water Co.—Increase in Rates.

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## ALLOCATION OF THE COST OF SERVICE.

The Town of Irvington has contended and has presented certain testimony in proof thereof that it has not been properly treated in the determination of the rates, and that it is entitled to preferential rates on a lower basis than those properly chargeable to other municipalities. A careful study has been made of the data submitted by the town's expert, and it is found that some elements have been ignored, at least to some extent. Within certain classes, however, rates must naturally be uniform. A detailed study would indicate that the cost to each customer is slightly different from that of his neighbor. Certainly from some standpoints, the cost of serving the customers adjacent to the pumping plant is less than the cost to serve those at a considerable distance. Economy in operation, however, depends to a large extent upon the magnitude of the company's business. Therefore costs must, to a large extent, be averaged among those whose patronage aids in bringing about lower general costs. If the Town of Irvington were separated, either in theory or in fact, from the rest of the system there might be a basis for its complaint. But it is a link in a chain of municipalities all supplied from the same source.

The system is an integral one, and not segregable into units physically. It therefore follows that claims to preferential treatment on the part of a single municipality might just as well be made by any one of the municipalities served by this company. In all probability, Summit, located much nearer the source of production, would have a better claim for preferential treatment than the Town of Irvington. Under all the circumstances, the Board is of the opinion that the adoption of uniform rate schedules applicable throughout the entire territory served by this company is proper and is not unduly preferential or unduly discriminatory in favor of or against any municipality.

## WEST ORANGE HIGH SERVICE.

For a number of years the high level service in West Orange has been supplied from the ends of the mains in Montclair. This was sufficient for all ordinary purposes until the high level portion of

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Commonwealth Water Co.—Increase in Rates.

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West Orange began to develop more rapidly. The service then became insufficient and inadequate, due to the small size of the mains bringing water into the town. Furthermore, the Montclair Water Company was unable to furnish additional water to provide for the ordinary growth of West Orange.

In view of these facts the Commonwealth Water Company, then in control of the West Orange Water Company (these companies having been consolidated in recent years), commenced the larger development of its water sources in the Canoe Brook Valley, lying northwest of Summit. Plans were inaugurated which have required several years for completion and which have finally resulted in the installation of a transmission line several miles in length to and through West Orange and the construction of the West Orange reservoir and booster pumping station. These items are, however, partially in use for the supply of West Orange generally, as well as the high level service.

The company has submitted estimate of the additional cost of supplying the West Orange high level service district, which is as follows:

TABLE No. R-1.

## ADDITIONAL COST OF SUPPLYING THE WEST ORANGE HIGH SERVICE DISTRICT.

*Fair Net Return:*

## Actual Cost:

West Orange booster station .....	\$15,113.96	
West Orange standpipe and lot .....	4,976.07	
<b>Total</b> .....	<b>\$20,090.03</b>	
Return 7.8 per cent of \$20,090 = .....		\$1,567

*Depreciation:*

Cost of West Orange booster station and standpipe (as above) .....	\$20,090.00	
Value of standpipe lot .....	1,000.00	
Value of depreciable items .....	\$19,090.00	
Annual depreciation = 1.1 per cent. of \$19,090 .....		210

*Taxes:*

Cost of West Orange booster station and standpipe (as above) .....	\$20,090.00	
Depreciation as above .....	210.00	
Present value of taxable items .....	\$19,880.00	
Tax rate = \$4.15 per \$100 of assessed value. Amount of taxes = 19,880 × 4.15 per cent. = .....		825

## Commonwealth Water Co.—Increase in Rates.

*Operating Expenses:*

Quarter ending June 30th, 1921.

403 Operating labor .....	\$492.76
403.3 Power purchased .....	1,110.40
403.4 Miscellaneous supplied and expenses .....	23.26
407.4 Repairs to electric pumping equipment .....	39.15

Total .....	\$1,065.57
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Annual amount = \$1,065.57 × 4 = .....	6,662
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Total additional cost .....	\$9,264
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The gross revenue being obtained from the residents of the high level district in West Orange approximates \$20,000 per annum at the present time. It has been estimated that the revenues generally will have to be increased to approximately \$21,350. The added cost of supplying the high level service, namely \$9,264, is approximately 42 per cent. of the amount already referred to, and if the customers supplied by the high level service in West Orange are to meet the entire cost as referred to, the rates to such customers would have to be increased to an extent which the Board does not believe justified when the growing character of the territory is taken into account. In the past year or so, new streets have been opened, many new houses erected and to a large extent the territory is clearly in the development stage, and it would be distinctly unfair to require present customers supplied from this service to bear all of the cost during the development period. Without material change in the figures of additional cost perhaps twice as many customers could be supplied. The added cost must, however, be recognized, and, in the opinion of the Board, the proportional part of the rate should not, for the immediate future, exceed the corresponding schedule in other parts of the territory by more than one-third.

The schedule filed by the company is based upon the assumption that an increase above the original basic schedule of about 31.7 per cent. is needed. The Board is of opinion that a gross increase of about 24.6 per cent. or 4.6 per cent. above the 20 per cent. allowance of 1920 is all that is required to meet those parts of the company's claims which merit consideration. The proportional charges as proposed by the company will be modified for both low and high level service.

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Commonwealth Water Co.—Increase in Rates.

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## TEMPORARY OR PERMANENT RATES.

Under the proposed rates the company estimates that the gross operating revenue would have to be \$405,543 in order to provide a net return of \$162,291. Adjustment of revenue deductions results in reducing the required gross operating revenues by \$7,170 to \$398,373.

After deducting the difference between net return claimed and return allowed, the gross revenue allowed is \$388,582. The division of the gross amount into the various classes of service is as follows:

## GROSS COST OF ALL SERVICE AND ALLOCATION OF REQUIRED GROSS REVENUE.

## GROSS COST OF ALL SERVICE.

Fair net return .....	\$152,500
Annual depreciation reserve .....	18,571
Taxes .....	70,125
Operating expenses .....	138,122
Add operating expenses for high service .....	9,264
	<hr/>
	\$388,582
Deduct one-half of additional cost for West Orange high service, not chargeable generally— .....	4,632
	<hr/>
	\$383,950

## ALLOCATION OF REQUIRED GROSS REVENUE.

Item (1)	Per Cent. (2)	Amount (3)
A. Subdivision of gross revenue between:		
Service revenue .....	98.14	\$376,716
Miscellaneous receipts .....	1.86	7,234
	<hr/>	<hr/>
	100.00	\$383,950
B. Subdivision of total service revenue between:		
Fire service revenue .....	14.7	55,377
General water service .....	85.3	321,339
	<hr/>	<hr/>
	100.0	\$376,716
C. Subdivision of general water service revenue between:		
Fixed service revenue .....	20	64,268
Proportional service revenue chargeable to all consumers .....	80	257,071
	<hr/>	<hr/>
	100	\$321,339

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**Commonwealth Water Co.—Increase in Rates.**

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The gross revenue for the twelve months ending September 20th, 1921, has already been stated as \$371,703. This falls short of producing the assumed required return by approximately \$17,000 and the present rates, inclusive of the 20 per cent. surcharge would have to be increased by about 4.6 per cent. additional. A new schedule on a basis which will include the present surcharge of 20 per cent. and the added increase needed at this time of approximately 4.6 per cent. will be allowed. This increase is necessary to enable the company to finance improvements. It will yield something over 7 per cent. The price of money has steadily declined since the petition herein was filed.

The only matter left to be determined by the Board is as to whether the increases shall be made in the form of a surcharge upon the original basic schedules or whether the new schedule on a permanent basis should be adopted at this time. The present cost of operation and maintenance, although reducing somewhat, is on a higher basis than at the time of the Board's original decision in 1916. The Board is of the opinion that a complete schedule on a proper and equitable basis is preferable to the continuation of the old basic schedule with a percentage surcharge. Under all conditions existing at this time, when many costs of construction and operation have not completely returned to normal, the Board will not approve a plan which practically amounts to an agreement between the company and the Board that the rates would not be disturbed for a considerable period of time. This is essentially what is involved in an approval of the company's plan to return to the customers all net return in excess of 7.8 per cent. This part of the company's proposed plan is rejected.

**CONCLUSIONS.**

The Board therefore finds and determines:

1. That the gross revenue of the company must be increased by an amount approximating 4.6 per cent. over that being received under the present schedule with its surcharge of 20 per cent.
2. That a higher schedule of rates for those served from the West Orange high level service is proper and equitable, but that the proportionate charge under such schedule should not be higher than the

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Commonwealth Water Co.—Increase in Rates.

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corresponding charge in the balance of the territory by more than 33 per cent.

3. That the schedule proposed by the company, modified, however, as already indicated, will bring to the company the net return needed under present conditions to enable the company to finance its extensions.

4. That the provision of the new schedule by which the net return is to be fixed at 7.8 per cent. and all excess returned to the customers is not a proper plan for adoption at a time when costs of construction and operation are not entirely normal, and the Board disapproves of this provision of the schedule.

5. That the company may file, to become effective for the quarter ending March 31st, 1922, the following schedule of rates:

*Fire Service:*

Hydrant charge .....	\$2.50 per hydrant per quarter.
Inch-foot charge .....	0.0018 per in.-ft. per quarter.

*General Water Service:*

## Fixed service charges:

$\frac{1}{2}$ or $\frac{5}{8}$ " meter	\$1.25 per quarter.
$\frac{3}{4}$ " meter	2.00 per quarter.
1" meter	4.50 per quarter.
1½" meter	11.00 per quarter.
2" meter	15.00 per quarter.
3" meter	30.00 per quarter.
4" meter	55.00 per quarter.
6" meter	100.00 per quarter.

## Proportional service charges or meter rates:

## Low service district:

First 40,000 cubic feet per year	\$2.25 per M cubic feet.
Next 300,000 cubic feet per year	1.75 per M cubic feet.
Next 3,000,000 cubic feet per year	1.35 per M cubic feet.
Over 4,000,000 cubic feet per year	1.10 per M cubic feet.

## High service district:

First 40,000 cubic feet per year	\$3.00 per M cubic feet.
Next 300,000 cubic feet per year	2.50 per M cubic feet.
Next 3,000,000 cubic feet per year	2.10 per M cubic feet.
Over 4,000,000 cubic feet per year	1.35 per M cubic feet.

Dated February 1st, 1922.

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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**No. 962.**

RINGWOOD COMPANY

VS.

ERIE RAILROAD COMPANY ET AL.,

AND

PEQUEST COMPANY

VS.

DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY,  
IN RE RATES ON IRON ORE.

1. In permitting the application to intra-state rates of the 40 per cent. increase which was put in effect as a result of I. C. C. Ex Parte, No. 74, the Board did not hold that such increase would result in just and reasonable rates upon all classes of commodities affected.

2. Reference was made at the time to protests against increases in rates on shipments of iron ore between New Jersey points and the Board stated that if the complainants so desired it would afford them hearing on application to reduce these rates.

3. The Board has endeavored to eliminate the inequalities which crept into the intra-state rates for iron ore as a result of the several flat increases made heretofore and concludes an increase of 15 per cent. should be allowed instead of 40 per cent.

4. The rates fixed recognize substantially the same differentials which existed in the rate structure applicable for an extended period prior to the first of the increases. They are generally consistent with rates charged by the respondent and other carriers for comparable intra-state hauls in New Jersey of iron ore and other commodities having like general characteristics.

*C. MacVeagh and C. S. Belsterling, for the Petitioners.*

*M. B. Pierce and W. J. Larrabee, for the Respondents.*

This case is before the Board as a result of complaints filed on December 24th, 1920, by Pequest Company and by Ringwood Company, said complainants alleging that certain rates charged for the transportation of iron ore, as hereinafter described, "are unjust and unreason-

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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able, unduly prejudicial and unjustly discriminatory in violation of the act concerning Public Utilities."

The rates complained against are embodied in the tariffs filed by The Delaware, Lackawanna and Western Railroad Company; Erie Railroad Company; New York, Susquehanna & Western Railroad Company, and Wharton & Northern Railroad Company. The issues involved in the two cases were joined and heard together at public hearings held November 17th, 1921, and December 26th, 1921, at which all of the interested parties made appearance.

Briefs and reply briefs were filed by complainant companies and by respondents, The Delaware, Lackawanna & Western Railroad Company and Erie Railroad Company. The manner in which the case was tried warrants the assumption that the single brief filed by the two carrier respondents is also filed on behalf of respondent, New York, Susquehanna & Western Railroad Company, although it does not so state specifically.

Respondent Wharton & Northern Railroad Company filed no brief, and presented no direct defense although its General Manager was called as a witness for complainants.

Complainant Ringwood Company is a New Jersey Corporation which operates certain iron ore mines at Ringwood, New Jersey, said mines being located on what is known as the "Greenwood Lake Division" of the Erie Railroad.

Complainant Pequest Company is a New Jersey Corporation which operates certain iron ore mines near Oxford Furnace, a point on The Delaware, Lackawanna & Western Railroad.

The rates complained against are as follows:

(a) From Ringwood, N. J. (Peters' Mine), to Wharton, N. J., the haul being made via Erie Railroad to Pompton Junction, thence, via New York, Susquehanna & Western Railroad to Green Pond Junction, thence, via Wharton & Northern Railroad to Wharton. Distance—33 miles.

D., L. and W. R. R. Co.—In re Rates on Iron Ore.

The recent history of this rate is as follows:

<i>(All rates stated per gross ton)</i>	<i>Increase</i>	<i>Effective Rate</i>	<i>Per Cent. Increase Over Rate in 1917</i>
Rate in effect prior to June 1st, 1917 .....		\$ .60	
June 1st, 1917—Flat increase .....	\$.15	.75	25.00
June 25th, 1918—Flat increase pursuant to I. C. C. —G. O. No. 28 .....	.35	1.10	58.33
August 26th, 1920—Increase of 40 per cent. pursuant to I. C. C. Ex Parte 74 .....	.44	1.54	73.33
October 20th, 1921—Temporary elimination of 40 per cent. increase above listed (or 28 per cent. decrease) .....	.43 *	1.11	71.66 *
December 31st, 1921—Restoration of 40 per cent. increase (or elimination of 28 per cent. decrease), .....	.43	1.54	71.66
Total increases .....	\$.94		156.66%

\* Decrease.

The above rates also applied for haul from Ringwood to Netcong and to hauls to Wharton and Netcong, via Mountain View.

(b) From Ringwood, N. J., (Peters' Mine), to Oxford Furnace, N. J., the haul being made via Erie Railroad to Mountain View, thence, via Lackawanna Railroad to destination. Distance—69 miles.

The recent history of this rate is as follows:

<i>(All rates stated per gross ton)</i>	<i>Increase</i>	<i>Effective Rate</i>	<i>Per Cent. Increase Over Rate in 1917</i>
Rate in effect prior to June 1st, 1917 .....		\$ .75	
June 1st, 1917—Flat increase .....	\$.15	.90	20
June 25th, 1918—Flat increase pursuant to I. C. C. —G. O. No. 28 .....	.30	1.20	40
August 26th, 1920—Increase of 40 per cent. pursuant to I. C. C. Ex Parte No. 74 .....	.48	1.68	64
October 20th, 1921—Temporary elimination of 40 per cent. increase above listed (or 28 per cent. reduction) .....	.47 *	1.21	64 *
December 31st, 1921—Restoration of 40 per cent. increase (or elimination of 28 per cent. decrease), .....	.47	1.68	64
Total increases .....	\$.93		124%

\* Decrease

(c) From Oxford Furnace, N. J., to Netcong, N. J., the haul being entirely via Lackawanna Railroad. Distance—23 miles.

## D., L. and W. R. R. Co.—In re Rates on Iron Ore.

The recent history of this rate is as follows:

<i>(All rates stated per gross ton)</i>		<i>Effective</i>		<i>Per Cent.</i>
	<i>Increase</i>	<i>Rate</i>	<i>in 1917</i>	<i>Increase</i>
Rate in effect prior to June 1st, 1917 .....		\$ .30		
June 1st, 1917—Flat increase .....	\$.15	.45		50.00
June 25th, 1918—Flat increase pursuant to I. C. C. —G. O. No. 28 .....	.35	.80		116.66
August 26th, 1920—Increase of 40 per cent. pursuant to I. C. C. Ex Parte No. 74 .....	.32	1.12		106.67
October 20th, 1921—Temporary elimination of 40 per cent. increase above listed (or 28 per cent. decrease) .....	.32 *	0.805		106.67 *
December 31st, 1921—Restoration of 40 per cent. increase (or elimination of 28 per cent. decrease), .....	.32	1.12		106.67
Total increases .....	\$.82			273.33%

\* Decrease.

It appears that the rates involved in this proceeding had been in effect without complaint or serious criticism for a number of years prior to the effective date of the first of the recent increases, June 1st, 1917. It also appears that said rates were generally in line with a formula cited for the fixing of rates for iron ore by the Interstate Commerce Commission in I. C. C. Dockets 4344 and 4390 (referred to throughout the testimony as the B. Nicoll & Company case), which was decided November 12th, 1912. Complainants make a point that said rates were not wholly consistent with the finding in that decision, and while this may be so in a strict mathematical sense, it appears, as above stated, that said rate schedule was at least generally consistent with this formula. For its purposes, incident to the decision in this case, the Board regards such rates as "basic."

The rates heretofore referred to as "basic" have been increased three times. Two of these increases have been in flat amounts, the third having been a percentage increase which was subsequently eliminated only to be restored. The record shows that the carriers displayed an inclination to accede to the elimination of the last increase and filed tariffs providing therefor, but that the Interstate Commerce Commission upon complaint of certain manufacturing interests outside the

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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State of New Jersey, withheld authority for the decrease pending an investigation.

In deciding this case, the Board has adopted the view that the rate which should be fixed for each of these respective services is such rate as is reasonable and proper in the light of the service performed, and that such economic advantages or disadvantages as exist and which produce competitive problems are matters for adjustment by the individual parties rather than by the Board.

As stated the rates in effect for the haulage of ore between the points involved in this case had been in effect for a considerable period prior to the date of the first increase (June 1st, 1917), and also had some, even if not an exact, relation to a schedule of rates established in accordance with a formula cited by the Interstate Commerce Commission in the B. Nicoll & Company case. Similarly, certain rates on competitive ore had also been in effect for an extended period prior to June 1st, 1917. The Board, therefore, feels justified in concluding that throughout this extended period the general freight rate fabric was so adjusted as between the different ores as to properly recognize the relative values of the services performed and to create at least a favorable presumption as to the reasonableness of the rates themselves.

That there were differences, possibly economic, in the factors involved and in the value and cost of the service is evidenced by the following comparison. The first of the three main columns in this table shows the so-called "basic" rates (in effect up to May 31st, 1917). The column following shows what these rates would have been had they been fixed exactly in accordance with the formula referred to in the decision in the B. Nicoll and Company case, while the third column shows the ratio of the actual rate to the hypothetical rate which would have been produced by the strict application of such formula.

## D., L. and W. R. R. Co.—In re Rates on Iron Ore.

Haul	Distance (Miles)	Rate in Effect May 31st, 1917 (Cents)	Computed as in B. Nicoll & Co. Case (Cents)	Ratio of Actual Rate to B. Nicoll & Co. Rate (Per Cent.)
Ringwood to Wharton....	33	60	48	125
Ringwood to Oxford Fur- nace .....	60	75	65	115
Ringwood to Netcong.....	46	60	53	113
Oxford Furnace to Net- cong .....	23	30	43	70
Mines to Upper Lake ports .....	75 *	55		
Less handling .....		05		
Balance for transportation service .....		50	71	70
Lower Lake ports to Net- cong .....	350	1 45		
Less handling .....		05		
Balance for transportation service .....		1 40	2 23	63
Mines (Lake Superior) to Netcong .....	425	2 00		
Less handling .....		10		
Balance for transportation service .....		1 90	2 64	72
(With 4 terminal movements) .....			2 94	

\* Estimated average haul on distances shown in Official Railway Guide.

A study of this table warrants the conclusion that some basic differences in the character of service were recognized. The Ringwood to Wharton rate is 125 per cent. of a theoretically correct rate for that haul while the rate fixed for the haulage of freight from the lower Lake ports to Netcong is but 63 per cent. of a theoretically correct rate on the B. Nicoll & Company formula. Similarly the Oxford Furnace to Netcong rate, which is one of the short hauls, is but 70 per cent. of the theoretically correct rate. In the case of this latter rate, the evidence makes it appear that it may have been fixed at what would otherwise appear to be a low figure in the light of a special service performed by the Pohatcong Railroad prior to the delivery of the freight

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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to the rail carrier. This special service, so called, and the rate therefor is not at issue in this proceeding. Items for "handling" have been deducted in connection with the Lake Superior ore for the reason that this is a special service not directly related to the transportation of the ore and which is separately provided for in the more recent tariffs. The amount for such service has been deducted in order to produce a more exact comparison with the service performed incident to the New Jersey ore.

It is not the intention of the Board to hold that the foregoing differentials are exact or are to be rigidly adhered to. For the purposes of this case, however, the Board adopts the view that their unchallenged acceptance over a period of years by both the carriers and the rate payers creates a presumption in their favor unless conditions under which one or another of the services were performed have changed materially. The evidence on this subject is to the effect, however, that there has been no material change.

The main difficulty in this case and the situation which apparently produces the complaint as to discrimination arises from the fact that such increases as were applied were not proportionately made.

The first increase was a flat increase of 15 cents. This constituted only a 7 1-2 per cent. increase over the rail rate on the Lake Superior ore, but produced an increase varying from 20 per cent. to 50 per cent. over the rates previously in effect for the New Jersey intra-state ores.

The second increase was a flat increase of 35 cents, which, together with the fifteen cent increase above mentioned (and an increase of eight cents on a portion of the haul), made the resultant rate for the Lake Superior ores, but 31 per cent. higher than the "basic" rate, whereas a similar flat increase on the New Jersey intra-state rates produced rates for these movements, which were respectively 60 per cent., 93 per cent. and 165 per cent. higher than the "basic" rates.

Complainants contend that this 35 cent impost on all iron ore was in the nature of a tax or assessment upon the commodity in the interest of securing an adequate income to the Federal Government in its war operations of the railroads. The Board is of the opinion that there is some merit in this contention and that the necessity for immediate relief might have warranted such action as an incident to the

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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successful prosecution of the war. It is also of the opinion that such method of deriving revenue may have worked no material hardship during a period of war activity when heavy demands and high prices prevailed for products manufactured from iron ore. With the return to more normal conditions, however, the Board feels that such inequalities and crudities as may have crept into the rate structure as a result of war necessity should be eliminated, and that a schedule of rates should be adopted which would take no cognizance of unusual governmental war-time demands, but only of the reasonable cost and worth of the service performed.

The next increase which became effective was a 40 per cent. increase provided for in tariffs effective August 26th, 1920. It is significant in this connection that said 40 per cent. increase was applied to the full amount of the New Jersey intra-state rates whereas it was only applied in the case of the Lake Superior ores to the portion of the haul from Buffalo to Netcong, the rate from the mines to the Upper Lake ports not being affected. As the New Jersey intra-state rates are being compared with the rates for the through haul of Lake Superior ore to Netcong, this had the effect of producing a further inequality as between the respective rate structures.

In October, 1921, however, the carriers voluntarily eliminated said 40 per cent. increase or rather make a 28 per cent. decrease from the rate, the mathematical result being substantially the same. The evidence makes it appear that it was the intention of the railroads to adhere to this lower rate schedule, and that said carriers would have done so except that they were refused permission so to do by the Interstate Commerce Commission following a complaint or complaints filed by certain steel producing interests outside the State. The steel interests which have complained to the Interstate Commerce Commission are situated at the lower Lake ports, are not called upon to pay any of the freight rates involved in this proceeding or the freight rate on Lake Superior ore from mines to Netcong. Said interests apparently desire to maintain their competitive advantage by having the high freight rates on iron ore to other steel producing centres continued. In view of this, the maintenance of the higher schedule of rates pending the necessary hearings and determination by the

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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Interstate Commerce Commission results in an artificial situation which might visit a considerable hardship upon the New Jersey iron and steel producing interests. The Board, therefore, in its comparison as between the rates involved in this proceeding and the rates in effect for the ore from Lake Superior mines to Netcong, has adopted the standard which prevailed before the recent 28 per cent. decrease was suspended.

The following table shows what the rates on iron ore between the New Jersey intra-state points involved are required to be in order that they may be consistent with the rates for the rail portion of the haul on ore from the Lake Superior mines to Netcong.

The first column of this statement assumes that the rail portion of the "basic" rate in effect May 31st, 1917, from the Lake Superior mines to Netcong is equal to 100 per cent., and that the other "basic" rates in effect between the New Jersey intra-state points were established with the proper relation thereto, the percentage relation of each of such rates to the rate for the longer haul in the "basic" schedule being set forth.

The second column shows the rates which were actually in effect on December 31st, 1921, prior to the reinstatement of the 40 per cent. increase.

The third column shows the rates which apply for the New Jersey intra-state traffic on the assumption that the rate from the Lake Superior mines to Netcong is reasonable and that the percentage relation which existed in the "basic" schedule should be preserved for application to the present haul of freight between New Jersey intra-state points.

The fourth column is merely rounded out from the odd amounts produced by the mathematical computation, and shows in effect the rates which this formula indicates to be the proper ones.

## D., L. and W. R. R. Co.—In re Rates on Iron Ore.

Haul	Dis- tance (Miles)	Ratio of Actual Rate to Rail Rate Lake Superior Mines to Net- cong * (Per Cent.)	Rates in effect December 31st, 1921	Rates Con- sistent with Rate on Super- ior Ore Through Rail	Rounded out
Ringwood to Wharton..	33	31.58	\$1.11	\$.79	\$.80
Ringwood to Oxford Furnace .....	60	39.47	1.21	.99	1.00
Ringwood to Netcong...	46	31.58	1.11	.79	.80
Oxford Furnace to Net- cong .....	23	15.79	0.805	.39	.40
Mines to Upper Lake ports .....	75		1.00		
Less handling .....			.05		
Balance for transporta- tion service .....	—	26.31	\$0.95	\$.66	—
Lower Lake ports to Netcong .....	350		\$1.61		
Less handling .....			.06		
Balance for transporta- tion service .....	—	73.69	\$1.55	\$1.84	—
Mines (Lake Superior) to Netcong .....	425		\$2.61		
Less handling .....			.11		
Balance for transporta- tion service (with 4 terminal movements),	—	100.00	\$2.50	\$2.50	—

\* In accordance with "basic" figures in effect at and prior to May 31st, 1917.

The New Jersey intra-state rates involved cover transportation of traffic for short hauls. It is axiomatic that the cost per ton or per ton mile for short haul traffic is considerably in excess of that for traffic having an extended haul. While an infinitude of items is responsible for the differences which should exist between haulage in these two classes, that is long and short haul, the principal reason is that relatively expensive terminal movements are involved in each and must be absorbed out of the amount of freight collected, whether the revenue is large or small.

No evidence was offered in the case as to the cost of performing terminal charges but Mr. Chapman, General Freight Agent for the Erie and for the Susquehanna Railroads, testified that the tariff charge for performing switching service between the Lackawanna and Erie Railroads at Mountain View (one of the points involved

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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in several of the movements under discussion here), is from \$5.00 to \$7.00 per car.

The Board recognizes that this switching charge between the two carriers at a junction point might cover a service somewhat dissimilar to that performed at an originating or a delivery point. It is nevertheless an index to the measure of the cost or value of services having similar general characteristics. Carrier respondents only undertook to show in one instance that the operation involved here was more costly than elsewhere. But the showing was not completely convincing as the Erie Railroad engine alleged to be assigned specifically to the Ringwood Company services performs revenue producing work other than that covered by these rates, including the separately billed switching service between the Cannon and Peters' mines. Assuming that \$7.00 per car is a fair allowance for services performed at the originating and delivery points, and accepting the reasonableness of the present tariff charge for switching, calculations have been made as shown in the following table for the purpose of ascertaining whether or not the rates arrived at by the method which the Board has first utilized herein, respond to the test of reasonableness. This second study distinguishes between the two services performed incident to each haul that is, the haulage service and the non-haulage service.

Fifty tons per car is assumed as the average load, based on the evidence of Mr. Chapman at page 153 of the testimony, and based upon the average loading per car as shown in the verified annual reports filed with the Commission by the Erie Railroad and the Lackawanna Railroad for the year ended December 31st, 1920. In this table, the amount of the freight bill which would result from the application of the rates heretofore worked out to a 50-ton car load of iron ore is subdivided between that portion which would be applicable for haulage charges and that which would be applicable to non-haulage service. Each of the terminal and switching movements involved is calculated at \$7.00 per car per movement, the remainder being assigned for the non-haulage services. This is then reduced to a per ton and a per ton mile basis and the results arrived at are compared with the standard used by the Interstate Commerce Commission in the B. Nicoll & Company case.

The results are fully set forth and speak for themselves:

## D., L. and W. R. R. Co.—In re Rates on Iron Ore.

	Ringwood to Wharton via Pompton Jct.	Mountain View	Ringwood to Oxford Furnace	Ringwood to Netcong	Oxford Furnace to Netcong	(Alternative) Oxford Furnace to Netcong
Proposed rate per gross ton .....	\$ .80	\$ .80	\$1.00	\$ .80	\$ .40	\$ .50
Amount of freight bill per 50 ton car .....	40.00	40.00	50.00	40.00	20.00	25.00
Number of switching and terminal movements....	4	3	3	3	2	2
Amount of freight bill absorbed by switching and terminal movements at \$7.00 per car each.....	28.00	21.00	21.00	21.00	14.00	14.00
Amount per ton allowed in above for switching and terminal charges .....	.50	.42	.42	.42	.28	.28
Amount per ton for non-haulage charges referred to in decision of I. C. C. in the B. Nicoll & Com- pany case .....	.30	.30	.30	.30	.30	.30
Excess allowed in above computation over 30 cents per ton—Amount .....	.28	.12	.12	.12	.02 *	.02 *
Per cent. (of increase) .....	87	40	40	40	7 *	7 *
Amount of freight bill remaining for haulage.....	\$12.00	\$19.00	\$29.00	\$19.00	\$6.00	\$11.00
Length of haul (miles) .....	33	33	69	46	23	23
Number of ton miles (per 50 ton car) .....	1650	1650	3450	2300	1150	1150
Amount per ton mile for haulage (cents) .....	0.727	1.152	0.841	0.826	0.522	0.957
Amount per ton mile for haulage referred to in decision of I. C. C. in the B. Nicoll & Company case (cents) .....	0.550	0.550	0.550	0.550	0.550	0.550
Excess allowed in above computation over 5.5 mills per ton mile—Amount (mills) .....	1.77	6.02	2.91	2.76	.28 *	4.07
Per cent. (of increase) .....	32	109	53	50	5 *	74

\* Deficiency.

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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It will be noted that the rates heretofore worked out in this report, or opinion of the Board, show results which are, with an exception hereinafter referred to separately, from 40 per cent. to 87 per cent. higher than the B. Nicoll & Company case standard for non-haulage service and from 32 per cent. to 109 per cent. higher than the B. Nicoll & Company standard for haulage service. The haul from Ringwood to Wharton is shown in two ways for the reason that the freight can be moved along either route, one haul involving one more switching movement than the other. The somewhat unnatural flow of the freight when taken over the Susquehanna may be caused by the fact that the ore originates on the Erie Railroad Company and that by delivering said ore to the affiliated Susquehanna Railroad, it can in the aggregate probably secure a larger share of rate than it could be making delivery to the non-affiliated Lackawanna.

The exception referred to in the above, involves the rate between Oxford Furnace and Netcong, which was originally set at 30 cents and which in the revised table works out at 40 cents. As stated hereinbefore, this low rate was doubtless established in the light of unusual conditions, probably those attendant upon the delivery of ore to the Lackawanna by the Pohatcong Railroad which makes an independent charge for such service. Such peculiar circumstances as may exist in connection with the movement of this ore were not completely developed in the evidence, although an exhibit filed contained a description of the service performed. This makes it appear that the terminal service at the originating point may be a less complete service than is usually rendered, and this may justify the relatively low rate which has always prevailed for this haul.

The foregoing rates have been arrived at by making calculations which ignored the 40 per cent. increase which was put in effect as a result of I. C. C. Ex Parte No. 74. In permitting the application of this increase to intra-state rates the Board did not hold that such increase would result in just and reasonable rates upon all classes of commodities affected. Reference was made at the time to protests against increases in rates on shipments of iron ore between New Jersey points and the Board stated that if the complainants so desired it would afford them hearing on application to reduce these rates. In another case recently decided by it, the Board was called upon to consider rates resulting from the application of this 40 per cent.

## D., L. and W. R. R. Co.—In re Rates on Iron Ore.

increase for the transportation of sand, gravel and broken stone. After weighing the evidence in that proceeding, the Board rendered its decision on May 25th, 1921, and held therein that in its opinion an increase equal to 15 per cent. of the rates previously in effect was warranted. In its calculations incident to the instant case, the Board has endeavored to eliminate the inequalities which crept into the intra-state rates for iron ore as a result of the several flat increases made heretofore, but it finds no reason why the conclusion reached by it in the Sand and Gravel case should not also be applicable here.

Therefore, it has concluded that to the rates shown by the calculations made heretofore in this opinion should be added amounts equal to 15 per cent., said 15 per cent. increase being allowed in lieu of the 40 per cent. increase embodied in I. C. C. Ex Parte No. 74.

The results are as follows:

From	To	Rate as Hereinbefore Developed (Cents)	Add 15 per cent. (Cents)	Total (Cents)	Rounded out (Cents)
Ringwood .....	Oxford Furnace ..	\$1.00	15	\$1.15	\$1.15
Ringwood .....	Wharton.....	.80	12	.92	.95
Ringwood .....	Netcong .....	.80	12	.92	.95
Oxford Furnace ..	Netcong .....	.40	6	.46	.50

The rates appearing in the last column above, recognize substantially the same differentials which existed in the rate structure applicable for an extended period prior to the first of the increases. They also provide percentage increases as great as or greater than the percentage increases embodied in the rail freight rate on ores from Lake Superior mines to Netcong at December 31st, 1921, with an additional 15 per cent. added. They are also generally consistent with rates charged by respondent and other carriers for comparable intra-state hauls in New Jersey of iron ore and other commodities having like general characteristics.

The Board finds and determines that the rates complained of in this proceeding are unjust and unreasonable and that the following would be just and reasonable rates for the transportation of iron ore between the points named, to wit:

Ringwood to Oxford Furnace .....	\$1.15 per gross ton.
Ringwood to Wharton .....	.95 per gross ton.
Ringwood to Netcong .....	.95 per gross ton.
Oxford Furnace to Netcong .....	.50 per gross ton.

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D., L. and W. R. R. Co.—In re Rates on Iron Ore.

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In the opinion of the Board, said rates adequately recognize increased costs of railroad operation and are reasonable for the service to be rendered incident to each of the respective services involved. An order will be made requiring the filing and publication of tariffs providing that these rates per gross ton be charged for the haulage of iron ore between the points shown.

Dated February 15th, 1922.

## ORDER.

This matter having been duly heard, and the Board having on the date hereof, made and filed a report stating its findings of fact and conclusions thereon, which report by reference thereto herein is made part hereof, the Board

HEREBY ORDERS AND DIRECTS the Delaware, Lackawanna and Western Railroad Company, the Erie Railroad Company, the New York, Susquehanna and Western Railroad and the Wharton and Northern Railroad Company, and each of said companies to file and publish tariffs on or before April 1st, 1922, and thereafter to maintain and apply to the transportation of iron ore, in carloads, from and to points named herein, rates per gross ton not in excess of the following:

Ringwood to Wharton .....	95 cents.
Ringwood to Oxford Furnace .....	\$1.15
Ringwood to Netcong .....	95 cents.
Oxford Furnace to Netcong .....	50 cents.

This order shall become effective March 15th, 1922.

Dated February 15th, 1922.

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Belvidere-Delaware Bridge Co.—Condition of Bridge at Belvidere, N. J.

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**No. 963.****IN THE MATTER OF THE CONDITION OF BRIDGE OF THE BELVIDERE-DELAWARE BRIDGE COMPANY AT BELVIDERE, NEW JERSEY.**

Upon the record in this matter and after considering the evidence adduced the Board concludes that the bridge of the Belvidere-Delaware Bridge Company crossing the Delaware River at Belvidere, New Jersey, is unsafely kept and maintained by the said company; that the said bridge is in such condition as to be dangerous to the public; and that it is desirable for the public interest and safety that repairs be made. Such repairs are ordered.

*William J. Burd*, for the Company.

*Charles A. Mead*, for the Commission.

A report dated January 30th, 1922, signed by Charles A. Mead, Chief Engineer, Division of Bridges and Grade Crossings, was submitted to the Board. This report was of the annual inspection of the toll bridge over the Delaware River at Belvidere, New Jersey, belonging to the Belvidere-Delaware Bridge Company. This report contained certain recommendations: (1) for work to be done immediately; (2) for work to be done before April 1st, 1922, and (3) for work to be done before June 1st, 1922. A copy of this report was sent by the Board's secretary to L. DeWitt Taylor, secretary of the Belvidere-Delaware Bridge Company on February 2nd, 1922, with a letter in which it was stated:

"From the engineer's report upon this bridge it would appear that the company is not justified in keeping it open for travel in its present condition. If after receiving the report of the Board's engineer the company does not close the bridge for traffic until the repairs recommended as immediately necessary are made it would seem upon the face of it that it is taking an undue risk.

"The Board will meet at the State House, Trenton, on Tuesday, February 14th, at 11 A. M. It desires to have present at that time and place a representative of the bridge company who will explain why the recommendations of the Board's engineer made in the past have been disregarded, and who will

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Belvidere-Delaware Bridge Co.—Condition of Bridge at Belvidere, N. J.

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state also what action the company has taken toward making the immediate repairs which appear to be necessary in order that the bridge may be used."

On Tuesday, February 14th, 1922, Mr. William J. Burd, treasurer of the company, appeared before the Board at the time and place mentioned and stated that the backwall had been cut away, but that the company had taken no further steps toward carrying out the recommendations contained in the report of the Board's engineer.

Mr. Mead testified to the effect that the bridge in its present condition is unsafely and improperly kept and maintained by the company owning and operating it and is dangerous to public travel. No expert testimony was offered to the contrary.

Chapter 298, N. J. P. L. 1913, provides:

"In addition to the powers already vested in the Board of Public Utility Commissioners by the act to which this is a supplement, the said Board shall be vested with power, and it shall be their duty to investigate the conditions and charges, rates and exactions now existing in the management and operation of the toll bridges now existing in this State, whether located entirely within this State, or connecting this State with any adjoining State and where, in their judgment, after proper investigation upon their own initiative or upon petition by at least ten freeholders in any county wherein such bridge or bridges are located, they shall conclude that the said bridges are unsafely or improperly kept and maintained by the operating company so as to be dangerous to the public, the said Board shall have power to order to the operating company at its own expense to make such necessary alterations or repairs in the construction of said bridge and its appurtenances as to such Board of Public Utility Commissioners may seem desirable for the public interest and safety."

Upon the record in this matter and after considering the evidence adduced at the hearing referred to herein, the Board concludes that the bridge of the Belvidere-Delaware Bridge Company, crossing the Delaware River at Belvidere, New Jersey, is unsafely kept and maintained by the said company; that the said bridge is in such condition as to be dangerous to the public; and that it is desirable for

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**Belvidere-Delaware Bridge Co.—Condition of Bridge at Belvidere, N. J.**

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the public interest and safety that alterations and repairs shall be made as follows:

1. Repair or rebuild the east abutment.
2. Provide proper clearances and means for expansion for the east span.
3. Rivet or bolt stringers to the floor beams throughout the entire length of the bridge.
4. Replace stone in second pier from the New Jersey end of the bridge.
5. Repair nosing of the third pier from the New Jersey end of the bridge.

In making repairs and alterations the east abutment and east span referred to should be repaired at once.

An order in accordance with the foregoing will be entered.

Dated February 15th, 1922.

**ORDER.**

This matter having been duly heard and the Board having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which report by reference thereto herein is made part hereof, the Board

HEREBY ORDERS AND DIRECTS the Belvidere-Delaware Bridge Company to make the following repairs to its toll bridge crossing the Delaware River at Belvidere, New Jersey, to wit:

1. Repair or rebuild the east abutment.
2. Provide proper clearances and means for expansion for the east span.
3. Rivet or bolt stringers to the floor beams throughout the entire length of the bridge.
4. Replace stone in second pier from the New Jersey end of the bridge.
5. Repair nosing of the third pier from the New Jersey end of the bridge.

The work called for herein should be begun at once and completed at the earliest practical date. In doing the work called for, repairs to the east abutment and east span should be given precedence

This order shall be effective at once.

Dated February 15th, 1922.

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 Newton Gas Co.—Increased Rates.
 

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**No. 964.**

## IN THE MATTER OF THE APPLICATION OF THE NEWTON GAS COMPANY FOR INCREASED RATES.

1. An agreement was reached after conference between representative of a gas company and of the municipality served which provided for increased rates and improved service.

2. The Board finds that the rates agreed upon are reasonable and fair to both parties concerned and probably as low as the Board would have been justified in ordering put into effect after further and possibly protracted hearings.

3. The rates agreed upon are authorized subject to the condition that plant improvements be made and that the installation and maintenance of meters and services from main to curb will be at the expense of the company.

*Hedley V. Cooke*, of *Cooke & Marvin*, for the Petitioner.

*Chas. T. Downing*, *Levi H. Morris* and *Henry T. Kays*, for the Board of Trade and Town Committee of Newton.

*W. W. Roe*, for the Newton Board of Trade.

The application in this matter was filed on December 22d, 1921, and hearings were held at Newton, N. J., on January 20th, 1922, and at Newark, N. J., on February 7th 1922. The schedule of rates in effect at the present time is as follows:

For lighting alone ..... \$1.75 per M cu. ft.

For lighting and fuel ..... 1.00 per M cu. ft.

For fuel alone ..... 1.35 per M cu. ft.

Discount of 15c per M cu. ft. allowed if bills are paid on or before the 10th of the month.

Minimum charge of 25c per month per meter.

The schedule of rates proposed in the petition is as follows:

For the first 3,000 cubic feet, \$2.35 per M cu. ft.

For the next 4,000 cubic feet, 2.30 per M cu. ft.

For the next 8,000 cubic feet, 2.20 per M cu. ft.

For the next 25,000 cubic feet, 2.10 per M cu. ft.

For all over 40,000 cubic feet, 2.00 per M cu. ft.

\$2.35 per M. cu. ft. for all gas furnished through prepayment meters.

A minimum charge of \$1.00 per month per meter.

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Newton Gas Co.—Increased Rates.

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The Newton Gas Company, or rather its predecessor companies, have had a rather checkered career, having been operated by a receiver for several years and having been finally sold and reorganized. The property was purchased by the present management late in the fall of 1921 for the sum of \$78,000. This sale was based on an inventory and appraisal of the property and the valuation was at that time approved by this Board.

From the statements which were attached to the company's petition and from the exhibits which were introduced at the first hearing, it was quite apparent that the petitioner needed a material increase in its rates in order to assure the continued operation of its plant. It was also conceded by all parties interested in this case and also known to this Board at the time the property was purchased, that an immediate expenditure of several thousand dollars was necessary in order to make certain that there should be no interruption in the service which was being rendered. These expenditures were made necessary by the failure of the prior management to properly maintain its plant, which failure was probably due in part to the fact that the rates which have been paid for gas during several years past have been inadequate.

At the first hearing the representatives of Newton indicated their willingness to pay a fair price for the service which was rendered by the petitioner and subsequently to the hearing engaged the services of a competent engineer to investigate the application of the petitioner, the exhibits and available records at the office of this Board with respect to the operation of the petitioner's plant.

Several conferences were held with the Board's engineer between the dates of the first and second hearings. On the day of the second hearing a conference was held between all the parties in interest and the Board's engineers; due to the spirit of co-operation existing between the parties concerned, an agreement was reached with respect to the rates and service to be furnished by the Newton Gas Company.

The Board is of the opinion that the rates which have been agreed upon are reasonable and fair to both parties concerned and that these rates, which are lower than the schedules filed by the company, are probably as low as this Board would have been justified in ordering put into effect after further and possibly protracted hearings on this matter.

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Newton Gas Co.—Increased Rates.

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The Board wishes to commend the good judgment of the municipal representatives in making it possible to render a speedy decision in this case without the expenditure of a great amount of time on the part of the Board and its representatives and expense on the part of the public whom they represent; and also to commend the company for its willingness to endeavor to render adequate service to this community at a lower price than was considered necessary by it in order to meet the wishes of the representatives of the public whom they serve.

## CONCLUSIONS.

The Board therefore concurs in the rate schedule which has been agreed upon as mentioned above, and finds and determines as follows:

1. That the petitioner should be afforded relief by increased rates.
2. That the petitioner may file the following schedule of rates effective for all bills rendered on and after March 1st, 1922, for sales since the January meter readings. This schedule is to supersede, by mutual consent of all parties concerned, the rates filed in the company's petition.

For the first 5,000 cu. ft. per month, \$2.30 per M cu. ft.

For the next 12,000 cu. ft. per month, 2.20 per M cu. ft.

For all over 15,000 cu. ft. per month, 2.10 per M cu. ft.

A prompt payment discount of 10c per M cu. ft. will be allowed for payment within ten days of date of mailing or presentation of bill.

All gas served through prepayment meters, \$2.20 per M cu. ft.

Minimum charge per month per meter, 75c.

Acceptance by the company of the increases herein allowed will, in accordance with the agreement reached between the parties at interest, be taken as a stipulation.

(a) That the plant will be put into a condition to render safe, adequate and proper service and repairs made substantially as set forth in Exhibit P-13 on or before September 1st, 1922.

(b) That the installation and maintenance of meters and services from main to curb will be at the expense of the company.

Dated February 16th, 1922.

D. and R. Canal Co.—Extension of Closing, Abandon Night Service.

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**No. 965.**

IN THE MATTER OF THE APPLICATION OF THE DELAWARE AND RARITAN CANAL COMPANY, PENNSYLVANIA RAILROAD COMPANY, LESSEE, TO EXTEND THE TIME DURING WHICH THE CANAL MAY BE CLOSED FOR REPAIRS, AND TO ABANDON NIGHT SERVICE THEREON.

The Board concludes that the period for closing the canal for navigation as heretofore determined by the Board is reasonable and the petitioner has not established any new fact or reason to change the previous order of the Board.

*W. Holt Apgar*, for the Petitioner.

*Thomas H. Hagerty*, for City of New Brunswick.

*Walter D. Cougle*, for City of Trenton.

*M. D. Warren*, for Trenton Chamber of Commerce.

*C. S. Atkinson*, for Board of Trade of New Brunswick and Raritan Terminal and Water Ways Association.

*Russell E. Watson*, for Middlesex Transportation Company.

*C. H. Price*, for Atlantic Refining Co.

*W. E. Bernard* and *J. O. Crawford*, for Vessel Owners' and Captains' Association of Philadelphia, Atlantic Deeper Water Ways Association and Canal Transportation Company.

*H. W. Miller*, for Merchants' Shipbuilding Corporation.

*James Hughes, Jr.*, representing Transportation.

On the petition of the Delaware and Raritan Canal Company, Pennsylvania Railroad Company, lessee, application was made to this Board to keep open for navigation the Delaware and Raritan Canal

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D. and R. Canal Co.—Extension of Closing, Abandon Night Service.

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between the first day of April and twentieth day of December, in each year, and that the canal be kept closed for navigation between the hours of 7 P. M. and 7 A. M.

The testimony in this case does not disclose a reasonable necessity for granting the permission prayed for in the petition. On February 6th, 1912, this Board ordered the applicants not to close the canal but only a portion thereof for navigation between March 1st and December 20th of every calendar year. On January 13th, 1914, a further order of this Board was made forbidding the closing of the canal except between January 15th and February 15th of each year. On February 2d, 1914, an amendment to the order of January 13th, 1914, was made by the Board in which it was ordered that the applicants shall not by their act keep the tidal basin on the canal at New Brunswick and the adjoining level from which said basin is fed, or either of them closed to navigation after February 15th, 1914, nor close said tidal basin or the adjoining level or either of them before January 15th of any year thereafter; nor keep the same closed after February 15th of any year thereafter unless an order of the Board on application is made therefor.

We conclude from the evidence that by reasonable effort and diligence the petitioner can keep the canal in proper repair under the present schedule of operation as ordered by this Board; that the work contemplated by the petitioner to locks 2, 7, 11 and bridge 20, which is the major part of the repairs, can easily be completed without any further extension of the time for closing the canal against navigation. As to the question of earnings and expenses, the Board further finds that the regulations now in effect for the operation of the canal as heretofore ordered by this Board do not unnecessarily or unreasonably contribute to any deficit in the operation of the canal and more particularly is this true when the Board considers its lack of power to control the tolls and rates in the operation of the canal, particular reference to which power is made in the report of this Board under date of February 6th, 1920.

The Board concludes and determines after a consideration of the evidence in this case that the period for closing the canal to navigation as heretofore determined by the Board is reasonable, and the petitioner has not established any new fact or reason to change the previous order of the Board.

Dated February 28th, 1922.

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Trenton, Lawrenceville and Princeton R. R.—Settlement of Taxes.

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**No. 966.****IN THE MATTER OF THE APPLICATION OF THE TRENTON, LAWRENCEVILLE AND PRINCETON RAILROAD COMPANY AND TRENTON, LAWRENCEVILLE AND PRINCETON EXTENSION RAILROAD COMPANY FOR A COMPROMISE AND SETTLEMENT OF TAXES.**

1. The Board is asked to compromise and settle taxes assessed under misapprehension on property not taxable as railroad property, the time for appeal to the State Board of Assessors having passed.

2. The Board is authorized by statute to entertain such application and "makes such investigation as may be necessary and determine whether it is in the public interest that there should be a compromise and settlement of such arrears of taxes \* \* \*"

3. The Board construes the words "in the public interest" as being synonymous with the words "in the interest of justice." It certainly is as much in the interest of the public that utilities should not be required to pay more than is just as it is in the public interest to require that they should not receive more than is just.

4. The Board reports that taxes assessed \$7,000 for the year 1920 should be compromised in the amount of \$5,000.

*Edgar W. Hunt*, for the Petitioners.

*William I. Newcorn*, Deputy Attorney General, for the State.

*To His Excellency, Honorable Edward I. Edwards, Governor of the State of New Jersey:*

The Board of Public Utility Commissioners has heard the following application and respectfully submits its report thereon.

The petition asks that the Board shall arrive at a determination as to the amount of taxes which should be paid by the petitioners for the year 1920 in accordance with the jurisdiction conferred upon the Board by chapter 81 of the Laws of 1915, as amended by chapter 222 of the Laws of 1916. That act provides, among other things:

"\* \* \* any railroad corporation of this State where taxes have been levied under a misapprehension or error, and the time for appeal has passed before the fact is discovered, and taxes not paid, may make application to the Board of Public Utility Commissioners to fix and determine an amount to be paid to the State of New Jersey in compromise and satisfaction of taxes levied upon property of such insolvent or other

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**Trenton, Lawrenceville and Princeton R. R.—Settlement of Taxes.**

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corporation, under the act to which this is a supplement or under any supplement or amendment to said act, which taxes may be in arrears at the time of such application, and authority is hereby conferred upon said Board of Public Utility Commissioners to entertain such application, make such investigation as may be necessary, and determine whether it is in the public interest that there should be a compromise and settlement of such arrears of taxes, and if so at what amount and whether such amount should be payable all at one time or in installments, with or without interest, and, however payable, when the same or the installments thereof should be paid. If said Board of Public Utility Commissioners shall determine that it is in the public interests that such taxes should be compromised, such Board shall report such determination and the amount at which in the judgment of said Board, such taxes should be settled and compromised, with the terms and time of payment, to the Governor of this State."

It will be noted that the statute provides that the Board shall report to the Governor such compromise as it may deem to be "in the public interest."

The facts in this case are as follow: the taxes for the year 1920 are in arrears. They were assessed under the Railroad Act which provides that property shall be assessed for railroad purposes in accordance with the use. It has been held that property not used for railroad property is not to be assessible under that Act. The State Board of Taxes and Assessments has so decided with reference to the taxes of this company for the year 1921. It was admitted by the Attorney General that the property of this company was not used for railroad purposes during the year 1920, for which these taxes were assessed. Ordinarily the proper forum for the adjustment of the taxes would be the State Board of Taxes and Assessments, but the time for appeal to that Board, provided by law, has expired. It appears that the property of the petitioners has not been used for the purposes contemplated by the Railroad Act for several years last past, although up to the year 1920 the company continued to pay taxes under the Railroad Act. The taxes under this Act are greater than would be imposed upon this company if it were taxed locally according to the municipal rates. The petitioners state that these taxes were assessed because of a misapprehension. Some question has

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Trenton, Lawrenceville and Princeton R. R.—Settlement of Taxes.

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been suggested as to whether the act means misapprehension on the part of the taxing authorities or misapprehension on the part of the railroad company. In the view that we take of the case, which is a broad view, it is not material to the disposition of this case which side the misapprehension rests with. It is stated by the company that its failure to call attention to the inapplicability of the railroad taxation act to this company, in so far as the taxes for 1920 are concerned, was due to the fact that it was acting under the advice of its counsel, who, without having the existing facts brought to his attention, gave it as his opinion that the company was taxable under the Railroad Act. Counsel had not been told, it appears, that the company's property was not then being operated as steam railroad property, and he assumed that the steam trains were operated on the petitioner's lines because some ten years ago or more the property was operated as a steam railroad. As above stated, the petitioners' lines have been used wholly as an electric property for some years prior to the year 1920.

The Attorney General agrees that it is a case where a compromise should be made and he suggests that the amount that the Board shall fix be the amount which this company would have to pay if taxed locally. The difference between the tax under consideration and the amount which the company would pay if taxed locally is \$2,000, the amount of the taxes levied by the State Board of Taxes and Assessments being \$7,000 and the amount which the company would pay if taxed locally being \$5,000, approximately.

We construe, for the purposes of this case, the words "in the public interest" as being synonymous with the words "in the interest of justice." It is certainly as much in the interest of the public that utilities should not be required to pay more than is just, as it is in the public interest to require that they shall not receive more than is just. If the appeal from this tax had not been out-lawed by the statute of limitations, the State Board of Taxes and Assessments would set it aside on the strength of its ruling in the assessment for 1921.

The Board therefore reports that, in its judgment, the taxes for the year 1920, assessed by the State Board of Taxes and Assessments, should be compromised in the amount of \$5,000 to be paid in full by May 1st, 1922.

Dated March 3d, 1922.

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Public Service Gas Co.—Rates Charged for Gas.

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**No. 967.****IN THE MATTER OF THE RATES CHARGED FOR GAS BY THE PUBLIC SERVICE GAS COMPANY.**

1. In investigating the reasonableness of the rates charged by the Public Service Gas Company the first question to be determined is whether or not the counties of Essex, Bergen and Hudson shall be given a divisional rate or whether the rate shall be a company-wide rate.

2. The Board holds that when no appraisal of the property in any division other than the Passaic Division is before it, and in view of the practice adopted heretofore, the rate for the present and until such time as it may be possible to obtain an appraisal of the company's property in toto shall be continued as a company-wide rate.

3. Reproduction cost new in a period of inflation is not a proper basis for valuation for the purpose of fixing a rate, although some consideration should be given to an allowance for appreciation of a company's property in view of present economic conditions. An estimate of value based upon the general trend of prices is a better test than cost to reproduce on a certain date.

4. The fair value of the company's property in the Passaic Division is placed at \$6,500,000, on which a return of eight per cent. is allowed.

5. It is determined that, by reason of decrease in costs, the rates for metered consumption of gas filed pursuant to the Board's finding of August 4th, 1920, are no longer just and reasonable. A schedule of rates to be charged is fixed.

*E. W. Wakelce, Geo. H. Blake and L. D. H. Gilmour*, for the company.

*James F. Gannon, Thomas J. Brogan and George L. Record*, for the City of Jersey City.

*Jerome T. Congleton and Jos. G. Wolber*, for the City of Newark.

*William A. Kavanaugh*, for the City of Hoboken.

*A. O. Miller, Jr.*, for the City of Passaic.

*William A. Calhoun*, for the City of Orange.

*Walter D. Cougle*, for the City of Trenton.

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Public Service Gas Co.—Rates Charged for Gas.

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*Welcome W. Bender*, for the Chamber of Commerce, of the City of Elizabeth.

*Clyde D. Souter*, for the Town of Kearny.

*W. G. Brandley*, for the Borough of Caldwell.

*W. P. Hurley*, for the Town of Nutley.

*J. W. Howard*, as a citizen of the City of Newark.

*Dr. W. G. Hanrahan*, for the Federation of Improvement Associations and the Rent Payers' Association of Essex County.

*A. E. Schefflin*, for Pensauken Township.

*R. B. Lewis* and *H. C. Roemer*, for the City of Paterson.

*W. B. Gourley* by *M. Force*, for the City of Clifton.

*H. C. Barrett*, for the Town of Harrison.

This is a proceeding initiated by the Board to investigate the reasonableness of the rates charged by the Public Service Gas Company.

The rates which have been in effect since August 4th, 1920, are as follows:

First 20 M. cubic feet per month.....	\$1.40 per M.
Next 30 M. cubic feet per month.....	1.35 per M.
Next 50 M. cubic feet per month.....	1.30 per M.
Next 50 M. cubic feet per month.....	1.25 per M.
Next 50 M. cubic feet per month.....	1.20 per M.
Next 100 M. cubic feet per month.....	1.15 per M.
Next 500 M. cubic feet per month.....	1.10 per M.
All over 800 M. cubic feet per month.....	1.05 per M.

The above rate to be applied to each installation or plant. The consumption of gas by the same consumer in different plants or localities will not be combined.

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Public Service Gas Co.—Rates Charged for Gas.

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Notices calling for a hearing for August 3d, 1921, were sent to the company and to the various municipalities served by it. The notice set forth that the hearing would be "on the question whether the rates now being charged by Public Service Gas Company are just and reasonable and to determine what rates are just and reasonable and should be fixed in the event of its appearing that the existing rates of said company are unjust and unreasonable. Interested parties may be heard at the time and place mentioned."

On the return day of the notice, August 3d, 1921, for which the first hearing was set, the City of Newark interposed a demand that the heat standard of the gas supplied by the company be raised. Counsel for the City of Jersey City joined in this demand. It thus became necessary, before the Board could enter upon an investigation of the rates charged for gas, that the question of the heat standard, which had been settled by a report of this Board dated August 4th, 1920, should be reinvestigated. Several months were consumed in taking testimony as to the proper calorific standard for gas in this State, with the result that, by an overwhelming preponderance of evidence, it was established that the standard fixed by the Board in August, 1920, was a proper standard. The Board so held, changing the wording of the rule, however, so as to bring about a closer conformity to the standard prescribed (see Board's report of November 4th, 1921).

In the Board's report of August 4th, 1920, it appears that the company made an application at that time for an increase in the rates, which it was then charging, to \$1.55 per thousand cubic feet. The base rate allowed by the Board at that time was \$1.40 per thousand cubic feet, based upon the 52.5 B. t. u. standard of gas. The question now before the Board is whether or not this rate is a just and reasonable rate under present conditions.

Since the disposition of the gas standard case late in 1921, the Board has been engaged in hearings in this proceeding. A great volume of testimony and many exhibits were presented. Although the case, as above stated, was begun on the Board's initiative, the municipalities of Newark, Jersey City, Paterson and Passaic appeared by counsel. The case proceeded along two lines. One of these lines was that pursued by the municipalities of Newark and Jersey City, which presented testimony which it was claimed was based upon costs of

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Public Service Gas Co.—Rates Charged for Gas.

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operation, including taxes and depreciation, plus a rate of return estimated in accordance with the allowance made by the Board in its report of August 4th, 1920, of approximately twenty-three cents per thousand cubic feet for return on capital. These municipalities presented no appraisal or valuation of the property, but based their claim upon the theory laid down by the Supreme Court and the Court of Errors and Appeals in the case of *O'Brien v. Board of Public Utility Commissioners* (92 N. J. Law, pp. 44 and 587). They claimed that the counties of Essex, Bergen and Hudson formed a separate division of this company's system, and that they were entitled to a rate for that division in accordance with the testimony presented by them as to operating costs, operating revenues and return on capital. The other line of proof pursued in the case was that which was followed by the Board from 1911 until the year 1919, namely, the establishment of a valuation in the Passaic Division upon which a rate could be based.

The contention of the cities of Newark and Jersey City that the counties of Essex, Bergen and Hudson should be segregated from the rest of the system and given a rate in accordance with their demand was strenuously combated by the counsel of the Passaic Division as well as by the representatives of the municipalities in the Central and Southern Divisions of the company's system. It is true, if a valuation of the property in the three counties named be disregarded, and a rate should be fixed upon the basis of the operating costs, as contended for by the representatives of these municipalities, in these three counties, a slightly lower rate might be possible in those counties. It further appears, however, that the main reason for the lower operating costs in the counties of Essex, Bergen and Hudson is the existence of a contract between the company and the Seaboard By-Products Coke Company, under which the gas company is supplied with gas as a by-product from the coke plant of the former company. Essex, Bergen and Hudson claimed the whole benefit of the saving to the company effected by this contract, while the Passaic Division and the Central Division and Southern Division demand that the benefits from this contract shall be proportionately distributed to them as a part of the entire system of this company.

The first question for the Board to determine, then, is whether or not the counties of Essex, Bergen and Hudson shall be given a divi-

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Public Service Gas Co.—Rates Charged for Gas.

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sional rate or whether the rate shall be a company-wide rate. We are of the opinion that at this time, when no appraisal of the property in any of the divisions other than the Passaic Division is before the Board, and in view of the practice that has been adopted heretofore, the rate for the present and until such time as it may be possible to obtain an appraisal of this company's property in toto, shall be continued as a company-wide rate. It is, in our opinion, unfair to allocate to the so-called Essex, Bergen and Hudson Division, which has been set up by the representatives of Newark and Jersey City, the entire benefit of the Seaboard By-Products Coke Company contract. The evidence shows that the Seaboard By-Products Coke Company is not owned or controlled by the Public Service Gas Company, that it is an independent company, which was established on the western bank of the Hackensack River for the production of coke, a by-product of which is gas. If the Public Service Gas Company did not secure the benefit of the contract with the Seaboard By-Products Coke Company, the gas company would be compelled to maintain and operate additional gas plant capacity and facilities for the purpose of supplying the counties of Essex, Bergen and Hudson and it is apparent from the testimony in the case that the cost to these counties in such event would be considerably in excess of that which it is claimed is allocable to them, by the representatives of Newark and Jersey City, because of the existence of this contract. It further appears that the divisional boundaries of the Passaic Division and the so-called Essex, Bergen and Hudson Division as the latter has been set up by the representatives of Newark and Jersey City, are but a few hundred feet apart. If this case is to be decided upon the principle that each division is entitled to its separate rate, then although it appears that the cost in the Passaic Division, which obtains none of the gas from the Seaboard By-Products Coke Company plant, is approximately five cents a thousand cubic feet higher than the cost of the gas in the Essex, Bergen and Hudson Division which enjoys the benefit of the contract in question, this differentiation would be wiped out by the building of a few hundred feet of gas main to connect the Passaic Division up with the Essex, Bergen and Hudson Division. Thus the divisional rate would fall as often as two divisions might be connected together. We know of no reason why the Passaic Division could not demand that it be coupled up with the district created

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Public Service Gas Co.—Rates Charged for Gas. .

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for Essex, Bergen and Hudson counties, nor why the Central and Southern Divisions should not claim that there should be an extension of the mains supplying the Essex, Bergen and Hudson Division to their divisions so as to give them the benefit of this contract.

The Board has concluded, therefore, to continue for the present the practice of a company-wide rate and it will use as the basis of its conclusions, as has been the practice heretofore, the valuation of property and the operating costs and revenues of the Passaic Division. The contention is made by the company that the Board must not only allow it a fair rate of return on the value of the property found by the Board in this proceeding, but that if in the event that such valuation and rate of return do not provide a sufficient sum to enable it to pay its fixed charges and eight per cent. upon its capital stock we should allow such addition as will enable the company to pay the said fixed charges and eight per cent. return on its stock. We do not accept this view. It was not the principle upon which the Passaic gas case was originally decided. That case held that the rate of return should be based upon the value of the property used and useful in what was known as the Passaic Division, and nothing is said therein as to the necessity for an allowance of a return which would enable this company to pay eight per cent. upon its stock and its fixed charges for rentals and bond issues of subsidiary companies which were never investigated by the Board. What that case decided was that the company should receive an eight per cent. return upon the value of the property used and useful in the Passaic Division, and since the report of the Board in that case on December 26th, 1912, the fixing of rates in that division has been based upon an investigation of the values and earnings and expenses of the company therein. Rates of the company have been under consideration by the Board on three occasions since then, and in each case the decision has been based upon the original report of the Board in 1912, which was approved by the Supreme Court and the Court of Errors and Appeals of this State. We deem it safer practice to follow the procedure which has been sanctioned by over ten years' experience and which has been on so many occasions adopted by the Board, by the company and by contesting municipalities as the proper basis upon which to fix a rate for this company.

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Public Service Gas Co.—Rates Charged for Gas.

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## VALUE OF THE PROPERTY USED AND USEFUL.

The value of the property used and useful in the Passaic Division was originally determined by the Board in 1912. Since then, in connection with rate adjustments, it has been brought up to date by adding, on each occasion, the actual cost of net additions made up to that time. In Table I, we have again brought the value up to date by the same method.

Mr. Forstall, an expert produced by the company, submitted a new valuation based upon cost to reproduce new as of the end of the year 1921. This valuation is based in large degree upon the abnormal prices brought about by the world war, and it is to be noted that he does not allow any deduction for depreciation, beyond mere deferred maintenance. We do not believe that reproduction cost new in such a period of inflation is a proper basis for valuation for the purpose of fixing a rate, although we are of the opinion that some consideration should be given to the allowance for appreciation of a company's property in view of present economic conditions. Where, however, as in this case, the Board has a valuation made by itself, as was done in 1912, and has the historical cost of the improvements and additions made since that time, we are of the opinion that this kind of valuation is the safer to adopt and is fortified by authority of the courts and commissions. We have therefore concluded to use the valuation as heretofore found by the Board with the actual cost of all additions made since the time such valuation was found. In addition thereto we have considered the question of the appreciation and depreciation of this property, as will appear in the following tables.

We do not think it necessary to cite opinions at large upon this point. The value upon which a rate must be found is the "fair value." To use the language of Mr. Justice Hughes in the Minnesota Rate Cases, 230 U. S. 352, "The basis of calculation is the 'fair value' of the property used for the convenience of the Public." Values produced by a world catastrophe such as the recent war are not, in our judgment, the "fair value" which the court had in mind.

As referee in the Brooklyn Borough Gas case, ex-Supreme Court Justice Hughes said (P. U. R. 1918-F, 335):

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**Public Service Gas Co.—Rates Charged for Gas.**

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“To base rates upon a plant valuation simply representing a hypothetical cost of reproduction at a time of abnormally high prices due to exceptional conditions, would be manifestly unfair to the public and likewise to base rates upon an estimated cost of production far lower than the actual bona fide and prudent investment because of abnormally low prices, would be unfair to the company.”

It is our opinion that an estimate of value based upon the general trend of prices is a better test than cost to reproduce on a certain date. The following table, designated Table I, will show what, for the purposes of this report, we will term historical cost, meaning thereby the valuation found by the Board in 1912, plus additions and betterments at actual cost since that time. Table II will show a valuation of the property based, in our judgment, upon the general trend of prices, being a check on Table I, and showing appreciation of value according to the Bureau of Labor statistics trend curve. Depreciation has been deducted in Table II on the basis used by Dr. Maltbie, an expert produced for the municipalities.

In Table I it will be noted that no depreciation other than the item of \$132,856, accumulated reserve, has been deducted from the value of the property as fixed in 1911 with additions since. If we are to assume the same depreciation for Table I as we have set up in Table II according to the testimony of Dr. Maltbie, namely, \$881,332, and the same appreciation as in Table II, namely, \$926,000, the other figures remaining the same, the valuation of the property in Table I would run to approximately \$6,584,000 as against the valuation of \$6,490,520, shown in Table II. This difference is due to the fact that in Table I the war-time additions were included at war-time prices and to some extent would be a duplication of the allowance for appreciation. We have concluded on the whole that a value of \$6,500,000 is the fair value of the property in the Passaic Division.

The Board's report of August 3d, 1920, which allowed the rate of \$1.40 was based upon a valuation of \$5,900,000, which was not attacked by the company and by accepting the benefit of increased rate allowed by that report it may be considered as acquiescing therein. We must reject the fanciful claim of the company now that

Public Service Gas Co.—Rates Charged for Gas.

the property is worth more than double that sum although the actual cost of additions since August 3d, 1920, have been less than \$500,000.

Table I and II follow:

TABLE I.

SUMMARY SHOWING VALUE OF PROPERTY AS OF JULY 1ST, 1922, BASED ON VALUE DETERMINED IN 1912. PLUS ADDITIONS AT ACTUAL COSTS.

(1) Land (see reference note) .....	\$111,160
(1) Manufacturing plant .....	1,161,550
(1) Distribution system .....	2,465,270
	<hr/>
	\$3,737,980
(1) Less additions between July 1st, 1911, and October 1st, 1911..	62,000
	<hr/>
	\$3,675,980
(2) Less depreciation .....	200,980
	<hr/>
	\$3,475,000
(1) Going value .....	1,025,000
	<hr/>
Value of Fixed Capital determined as of July 1st, 1912.....	\$4,500,000
(3) Net additions .....	\$1,552,419
(4) Less accumulated reserve .....	132,856
	<hr/>
	1,419,563
	<hr/>
	\$5,919,563
(5) Net working capital, Maltbie's testimony.....	465,000
	<hr/>
Value at December 31st, 1921.....	\$6,384,563
(6) Add one-half additions for 1922.....	115,500
	<hr/>
Value as of July 1st, 1922.....	\$6,500,063
Taken as .....	\$6,500,000

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- (1) Board's report of December 26th, 1912, Vol. I, page 490.
  - (2) Board's report of December 26th, 1912, Vol. I, page 492.
  - (3) Exhibit C-43 in present rate case.
  - (4) Exhibit C-42 in present rate case.
  - (5) Testimony of M. R. Maltbie, page 1290.
  - (6) Based on average for 1920 and 1921 (testimony, pages 1557 and 1558) and disregarding estimated increase in depreciation reserve for six months, January 1st to July 1st, 1922.

## Public Service Gas Co.—Rates Charged for Gas.

TABLE II.

VALUATION PUBLIC SERVICE GAS COMPANY PROPERTY BASED UPON VALUES DETERMINED IN THE ORIGINAL PASSAIC RATE CASE OF 1911 WITH ADDITIONS TO PROPERTY INCLUDED AT PRE-WAR COSTS INSTEAD OF AT ACTUAL WAR TIME COSTS, PLUS AN ALLOWANCE FOR APPRECIATION FROM 1911 TO 1921, LESS DEDUCTION FOR DEPRECIATION ACCORDING TO MALTBIE'S CALCULATION, PLUS WORKING CAPITAL IN ACCORDANCE WITH MALTBIE'S CALCULATIONS.

(1) Manufacturing plant .....	\$1,161,550
(1) Distribution system .....	2,465,270
	<hr/> \$3,626,820
(1) Deduct additions between July 1st, 1911, and October 1st, 1911 .....	62,000
	<hr/> \$3,564,820
(2) Additions (omitting land) up to December 31st, 1921, taken, however, at pre-war cost .....	1,125,000
	<hr/>
Total structures and equipment at pre-war costs.....	\$4,689,820
(3) Add for appreciation .....	926,000
	<hr/>
	\$5,615,820
(4) Deduct depreciation reserve (\$897,997-\$16,065 =).....	881,332
	<hr/>
	\$4,734,488
(5) Add land (\$111,160 plus \$39,372).....	150,532
(1) Going value .....	1,025,000
(6) Working capital .....	465,000
	<hr/>
	\$6,375,020
(7) Add one-half additions for 1922.....	115,500
	<hr/>
Total value as of July 1st, 1922, on above basis.....	\$6,490,520

(1) Report of the Board in Passaic Gas case, December 26th, 1912, Vol. I, page 490.

(2) Additions to plant from 1911 to December 31st, 1921, as per Ex. C-43 present rate case—\$1,552,419, or, deducting land, \$1,513,047 for structures and equipment. It is estimated that if these items had been constructed at the costs prevalent in 1911, at the time the original appraisal of the Passaic Division was made, the cost of these net additions would have been \$1,125,000.

(3) Chart submitted by Alfred E. Forstall, giving curve of Bureau of Labor statistics monthly index numbers, shows a rising trend from 1897 to 1921 of 1.75 points per annum. In the eleven-year period, from July 1st, 1911, to July 1st, 1922, the appreciation would amount to 19.25 per cent., and the assumption is made that all of the property of the gas company has appreciated in value since 1911 at the rate of 1.75 per cent. per annum.

(4) Depreciation estimated by Maltbie on the basis allowed by Board in earlier determinations, i. e., five cents per thousand cubic feet. Maltbie Ex-P-1, Table 70. Also Maltbie testimony, pages 1211-1212.

(5) Land taken at original appraised value (reference Note 1 above), plus actual costs since 1911 (Ex. P-1, Tables 56 and 66); appreciation included as above.

(6) Testimony of M. R. Maltbie, page 1290.

(7) Based upon average for 1920 and 1921 (see also note, Table I).

## Public Service Gas Co.—Rates Charged for Gas.

RATE REQUIRED TO SUPPORT AN EIGHT PER CENT. RETURN ON VALUE.

In order to arrive at the appropriate base rate for gas sold in accordance with the testimony developed in this case based upon the estimated operating expenses for 1922, the return on capital must be added to the operating expenses. This will be found in Table III, which follows:

TABLE III.

BASE RATES REQUIRED TO EARN EIGHT PER CENT. ON VALUE FIXED ABOVE.

Valuation taken at year ending December 31st, 1922, \$6,500,000.

	Totals	Cents per M. cu. ft. sold
Operating expenses and taxes.....	\$2,079,512.90	\$0.9693
Credit merchandise and residuals .....	80,880.68	0.0377
	<hr/>	<hr/>
	\$1,908,632.22	\$0.9316
Uncollectible bills .....	10,726.88	0.0050
Depreciation .....	107,268.80	0.0500
8 per cent. on \$6,500,000.....	520,000.00	0.2424
For wholesaling .....	34,755.00	0.0162
	<hr/>	<hr/>
Revenue required .....	\$2,671,382.90	\$1.2452

## Public Service Gas Co.—Rates Charged for Gas.

## OPERATING EXPENSES AND TAXES.

The set-up of the company for operating expenses and taxes as shown in Exhibit C-27 and that of Dr. Maltbie on behalf of the municipalities, as shown in Exhibit P-3, Table 41, and that adopted by the Board, will be shown in Table IV, which follows:

TABLE IV.

OPERATING EXPENSES FOR ENSUING YEAR—DOLLARS PER 1,000 CU. FT. SOLD—  
FOR YEAR 1922.

	Company Ex. C-27	Dr. Maltbie Ex. P-3-T-41 Re-arranged	As found by board
Production—			
Fuel .....	\$0.2150		
Oil .....	0.2971		
	<u>\$0.5121</u>		
Other items. net.....	0.0917		
Total production, net .....	<u>\$0.6038</u>	(1) \$0.5850	\$0.6038
Transmission and distribution .....	0.0954	0.0700	0.0900
Municipal street lighting .....	0.0038	0.0040	0.0038
Commercial .....	0.0670	0.0630	0.0611
New business .....	0.0186	0.0180	0.0170
General and miscellaneous .....	<u>0.0636</u>	(1) 0.0480	<u>0.0636</u>
Subtotal .....	<u>\$0.8522</u>	\$0.7880	<u>\$0.8343</u>
Depreciation .....	0.0500	0.0500	0.0500
Operating expenses .....	<u>\$0.0022</u>	<u>\$0.8380</u>	<u>\$0.8893</u>
Taxes .....	0.1402	0.1200	0.1300
Uncollectible bills .....	<u>0.0100</u>	<u>0.0060</u>	<u>0.0050</u>
Revenue deductions .....	<u>\$1.0524</u>	<u>\$0.9640</u>	<u>\$1.0243</u>
Gas made, M. cubic feet.....	2,411,000		2,389,620
Gas sold, M. cubic feet.....	2,145,376		2,145,376

(1) Omitting residuals credited in production, and cost of residuals sold in general and miscellaneous, taken as balancing each other.

## Public Service Gas Co.—Rates Charged for Gas.

Table V, which follows, is self-explanatory.

TABLE V.

COMPANY'S ESTIMATE OF RESULTS UNDER \$1.40 RATE (EX. C-27) ; DR. MALTBY'S (EX. P-3, TABLE 41), AND THE BOARD'S ESTIMATE OF RATE REQUIRED TO EARN EIGHT PER CENT. ON VALUE.

	Company	Maltbie	As found by Board
Revenue deductions .....	\$1.0524	\$0.9640	\$1.0243
Cr. Merchandise and Residuals.....	0.0377	(1) 0.0210	0.0377
Deductions, Net .....	\$1.0147	\$0.9430	\$0.9866
For return on capital.....	0.3703	0.2340	0.2424
Average ratio .....	\$1.3850	\$1.1770	\$1.2290
For Wholesale districts .....	0.0150	0.0180	0.0162
Total .....	(2) \$1.4000	\$1.1950	\$1.2452
If company's estimate of production expense is taken by Dr. Maltbie, add.....	.....	0.0188	.....
Total on basis of company's production cost,	\$1.4000	\$1.2138	\$1.2452

(1) Omitting revenue from Residuals Sold.

(2) The company asks a minimum base rate of \$1.35; \$1.40 is the existing base rate.

The company, in Exhibit C-27, relating to the Passaic Division, made an estimate in detail for the year 1922 of its revenue expected to be received under existing rate of \$1.40 and of the operating costs of producing the gas to be sold. The company estimated that it would require the manufacture of 2,411,000 M. cubic feet of gas to sell 2,145,376 M. cubic feet. An inspection of the operating results for the year 1921 indicates that the company's estimate of 2,411,000 M. cubic feet should be reduced to substantially 2,389,620 M. cubic feet, assuming the same efficiency in 1922 as was obtained in 1921. The gas made in 1921 was 2,332,037.7 M. cubic feet and the gas sold was 2,093,688 M. cubic feet, or 89.77 per cent. The company's estimate for 1922 assumes that it will sell but 89 per cent. of the gas made. In the company's estimate of \$0.6038 per M. cubic feet sold for net production cost it will have the benefit of this extra 0.77 per cent. of gas not required to be made.

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Public Service Gas Co.—Rates Charged for Gas.

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Dr. Malthbie, in Exhibit P-3, Table 41, estimated that the production cost net would be \$0.5850 per M. cubic feet sold. This cost per thousand cubic feet was computed by assuming for the first nine months of 1922 that the company would pay the present contract price for its gas oil, and that during the last three months of the year 1922 the company would be able to secure a more favorable contract for oil by the terms of which he estimated that oil would cost \$0.065 per gallon. On cross examination he stated that the difference in production cost between his estimate and that of the company was made up by a reduction which he presumed the company would secure on oil used during the last three months of the year by the terms of any new contract for oil which it might make. The situation with reference to the existing oil contract is as follows: the company, in the year 1921, found itself saddled with a contract for oil at approximately \$0.135 per gallon, which was an inordinately high price caused by war conditions. The contract did not expire until August 1st, 1921, and the company was required under it to take oil up to that date. In the latter part of April, 1921, the price of oil having fallen to approximately \$0.065 per gallon in the spot market, the officials of the company, as a matter of business judgment, in order to relieve the company, so far as it might be possible, of the burden of taking the high priced oil under its contract up to the first of August, 1921, effected a compromise with the oil company by the terms of which the supply of oil at the high price of \$0.135 would be discontinued but the price fixed for all future deliveries of oil up to July 30th, 1922, would be approximately \$0.0944 per gallon (Exhibit C-4). This price was some \$0.02 higher than the market, but it was probably the best compromise that could be effected under the conditions which confronted the company and we have no reason to criticise the judgment of the officers of the company in making it and we accordingly accept the company's contention that in the Passaic Division a price of approximately \$0.0944 was proper under the conditions then existing. For 1922, by reason of freight adjustments, the company computes production cost on the basis of \$0.0918 per gallon. The present oil contract, under which oil is delivered at \$0.0918 per gallon does not expire until August 1st, 1922. The testimony shows that, although the price of oil at the present time is lower than \$0.0918, the company could not obtain a

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Public Service Gas Co.--Rates Charged for Gas.

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contract at this time from any oil company capable of supplying the amount required by this company for delivery at a date subsequent to August 1st, 1922. Dr. Maltbie's opinion that five or six months hence the company will be able to secure a new contract at a price approximately \$0.065 is too conjectural for acceptance. But if it were accepted the difference in the rate would be but .0188 and the Board's conclusion would still lead to the same base rate as finally fixed. We are, therefore, taking the company's estimate for production at \$.6038 per M. cubic feet sold, which Dr. Maltbie (testimony, p. 1305) admitted would be correct on the basis of the existing contract. If and when the company does secure a contract for oil at a lower price than that now being paid, the Board will take judicial notice thereof and institute proceedings to make such modification as the record might indicate.

The company makes estimates based on certain work under Transmission and Distribution which it expects will have to be done, but which cross-examination shows actually may not be done. Dr. Maltbie, in his set-up for these same expenses, makes modifications therein based on his judgment. The figures for transmission and distribution, municipal street lighting, commercial expenses and new business, as shown in the Board's set-up, are based on the actual expenses for the year 1921, which appear to the Board to be fully competent to take care of the business in 1922, particularly in view of the fact that prices are likely to be lower, if anything, in 1922, than in the year 1921. For general and miscellaneous, the Board accepts the company's figure of \$0.0636. In all three estimates, the appropriation for depreciation is taken at \$0.05 per thousand cubic feet, as heretofore determined by the Board. The taxes as taken by the company and as set forth in Exhibit C-27, aggregate for all property, \$0.1402, by Maltbie at \$0.1200 and by the Board at \$0.1300. The uncollectible bills are taken by the company at the arbitrary figure of \$0.01, by Dr. Maltbie at \$0.006 and by the Board at \$0.05, the latter figure being consistent with the company's experience in the preceding years, adjusted to the change in rates. The revenue deductions per M. cubic feet sold shown by the company aggregate \$1.0524, by Dr. Maltbie, \$0.964 (subject to his assumptions in regard to the cost of oil during the last three months of the year) and by the Board as \$1.0243.

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Public Service Gas Co.—Rates Charged for Gas.

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It will be seen from the above Table V, that, in the Passaic Division, the cost of manufacture and distribution of gas, plus a return upon capital, would require by Dr. Maltbie's estimate \$1.2138 (including therein \$0.0188, the differential which he deducted from production costs because of a presumed more favorable oil contract for the last three months of the year), while the estimate of the Board is \$1.2452. Dr. Maltbie estimates taxes on the basis of the allowance of a \$1.20 rate. In the light of the Board's finding as above shown, however, that the base rate cannot be less than \$1.2452, the allowance made by Dr. Maltbie must be increased in so far as the item of taxes is concerned. Adjusting the taxes and the difference allowed for oil as set forth by Dr. Maltbie, we find that instead of \$1.20 per thousand cubic feet as a base rate, Dr. Maltbie's estimate as adjusted would run close to \$1.22. The company claims that it should receive a base rate of at least \$1.35 per M. cubic feet.

Finding as we do that a fair rate for the Passaic Division should not be less than \$1.2452, following the usual practice of the Board of fixing an even figure as the base rate, and following also the practice heretofore pursued by the Board as well as by the company which practice it is insisted by the company, as well as representatives of the Central and Southern Divisions, shall be followed in this case, namely, that of basing a state-wide rate upon the rate fixed for the Passaic Division, we conclude that a base rate of \$1.25 per thousand cubic feet for the Passaic Division, and also throughout the territory supplied by the company, is a just and reasonable rate.

#### CONCLUSIONS.

The Board therefore finds and determines:

(1) That, by reason of decrease in costs, the rates for metered consumption of gas filed by the Public Service Gas Company, pursuant to the determination of this Board and set forth in its report dated August 4th, 1920 (Board's reports, Vol. VIII, p. 323), are no longer just and reasonable.

(2) That based on the thermal standard stated in the Board's report of November 4th, 1921, effective December 1st, 1921, the following schedule of rates for metered gas is just and reasonable:

Public Service Gas Co.--Rates Charged for Gas.

First 20 M. cubic feet per month.....	\$1.25 per M.
Next 30 M. cubic feet per month.....	1.20 per M.
Next 50 M. cubic feet per month.....	1.15 per M.
Next 50 M. cubic feet per month.....	1.10 per M.
Next 50 M. cubic feet per month.....	1.05 per M.
Next 100 M. cubic feet per month.....	1.00 per M.
Next 500 M. cubic feet per month.....	0.95 per M.
All over 800 M. cubic feet per month.....	0.90 per M.

(3) That this schedule of rates shall become effective throughout the territory served by the Public Service Gas Company for gas consumed between the usual meter readings in February, 1922, and March, 1922 (usually known as the March sales).

(4) That in other respects the orders and requirements heretofore made shall continue in full force and effect.

(5) That the Board will retain jurisdiction to the end that changes and modifications in the above schedule of rates may be made as and if conditions as indicated by operating results both as to revenue and character of service warrant.

(6) An order will issue accordingly.

Dated March 3d, 1922.

ORDER.

As modified March 22d, 1922.

This case having been duly submitted and full investigation of the matters and things involved having been had, and the Board having on the date hereof made and filed a report containing its findings, which said report is hereby referred to and made part hereof:

The Board of Public Utility Commissioners, after hearing, upon notice, by virtue of the power and authority conferred upon it by statute, now, on the third day of March, nineteen hundred and twenty-two,

DETERMINES that the existing schedule of rates or charges for metered gas effective in the territory known as the Passaic Division and also throughout the rest of the territory now supplied by the Public Service Gas Company, under which schedule the base rate is \$1.40 per thousand cubic feet is unjust and unreasonable and HEREBY

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**Public Service Gas Co.—Rates Charged for Gas.**

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ORDERS fixed as just and reasonable rates in the Passaic Division and the rest of the territory supplied by the Public Service Gas Company the following schedule of rates or charges in which the base rate is \$1.25 per thousand cubic feet, viz.:

First 20 M. cubic feet per month.....	\$1.25 per M.
Next 30 M. cubic feet per month.....	1.20 per M.
Next 50 M. cubic feet per month.....	1.15 per M.
Next 50 M. cubic feet per month.....	1.10 per M.
Next 50 M. cubic feet per month.....	1.05 per M.
Next 100 M. cubic feet per month.....	1.00 per M.
Next 500 M. cubic feet per month.....	0.95 per M.
All over 800 M. cubic feet per month.....	0.90 per M.

which shall, until otherwise ordered, be observed and followed by said Public Service Gas Company.

This order shall become effective March 27th, 1922.

Dated March 3d, 1922.

# INDEX.

## ABANDONMENT OF SERVICE. *See also* RAILROAD STATIONS.

Application is made by a street railway company to abandon part of its line. In view of the inability of the company to earn anything like a fair return upon the property involved, of the request of the State Highway Commission that the track be removed so it may improve the street as part of the State Highway System, and the request of the City Commission that the Board consent to the removal, the Board holds that the advantages accruing to the community as a whole from the removal of the tracks and abandonment of the franchise outweigh the objections of residents opposing the removal, and that the consent should be granted. *Proposed abandonment by Millville Traction Company of its franchise on South Second Street. Millville* .....p. 4

Consent is given to a street railway company to abandon service and remove tracks partly on a private right of way and partly on a public highway where the track runs to an amusement park no longer used; the consent to the removal of the track from the public highway to be given upon the municipality consenting thereto. With respect to another portion of the track running for a distance of ten miles between different municipalities the Board, notwithstanding the company's assertion that the portion of the line in question is not profitable, will not grant the application for removal at least until the attitude of the municipalities is ascertained and evidence thereof is submitted to the Board. Mere failure to earn a proper return on a line which is part of a system is not sufficient ground for its abandonment. *Abandonment of portion of the line and removal of tracks of the Bridgeton and Millville Traction Company* .....p. 6

## AUTO BUSES.

The Legislature has made the subject of jitney transportation a matter of legislation at various times since the year 1916 and the legislation it has enacted in regard thereto sanctions the jitney system and establishes it as a legislatively authorized method of transportation. While the Legislature has placed all street railways under the jurisdiction of this Board, it has expressly refused to so place jitneys licensed before March 15th of this year and operated over their April 6th routes, by limiting its power of regulation solely to such as should be licensed after March 15th. The policy of this Board in applications presented to it will be to approve all licenses or permits granted by the municipalities in renewal or substitution of all licenses or permits existing prior to March 15th unless it can be affirmatively shown that conditions pertinent to the consideration

of the necessary factors have so changed as to make either an increase or decrease in the number necessary. *Application of Carl A. Becker to operate an auto bus on the West Orange Line.....p.* 121

Since the foregoing decision the Supreme Court has held that in each case approval is given, the finding must be the independent judgment of the Board based upon competent proof, and cannot depend upon the action of the municipal body granting the previous consent, for public necessity does not follow from that. From the undisputed evidence submitted that there are twice as many seats on the trolley cars, and in jitneys as are required for passenger service, and that the frequency of this transportation is as great as necessity requires and safety demands, the Board is of the opinion the necessity does not require additional jitney service as same will not add to the comfort and convenience of the riders, but on the contrary will add to the inconvenience of others who have to use the streets or cross the same. Approval of licenses to operate additional jitneys on Washington Street between Fourteenth Street and Hudson and Manhattan Tube Terminal, Hoboken, is therefore denied. *Operation of jitneys in the city of Hoboken.....p.* 126

Approval of licenses to operate auto buses is denied where it appeared that none of the applicants had licenses to operate from the local municipalities nor were their buses in operation on March 15th, the date on and after which under the law applications of this character came within the Board's jurisdiction, and evidence showed ample accommodation for the public. *Application of Edward Strano, Harry West, Joseph Grasso and Samuel Alderelli to operate auto buses in Asbury Park and other municipalities.....p.* 128

Application for approval of local permission to operate an auto bus is denied where the existing bus and trolley transportation facilities are sufficient to meet the normal demands of traffic. *Application of Benjamin Mackler for permission to operate an auto bus on the Haddon Heights Line, Camden, New Jersey.....p.* 256

A considerable and growing community is entitled to have reasonable transportation facilities and should not be deprived of such facilities merely because it is necessary to parallel existing trolley lines to furnish them. Permission is given to operate an auto bus between the Pennsylvania Railroad ferry in Camden and Highland Park, subject to restrictions applying to the transportation of passengers between points already adequately served. *Application of Martin Fries for permission to operate an auto bus between Highland Park and Camden, N. J. ....p.* 260

Application for approval of local licenses to operate auto buses is denied where it appears that sufficient transportation facilities exist without use of the applicant's buses. *Application of Charles Aceto Bus Company for permission to operate auto buses on Fairview No. 2 Route, Camden, N. J. ....p.* 262

The Board will assume as a matter of policy, that the number of jitneys in operation on March 15th on any given route were necessary to meet the traffic conditions on that route and would as a matter of course approve all applications for mere substitution or renewals of existing bus permits, unless it appeared that conditions had so changed since the 15th of March as to make some other conclusion necessary or advisable; bearing in mind the fact that public necessity and convenience is to be the determining factor in reaching a conclusion. The only question in this case is whether the evidence produced by the objector is of such a character as to justify the Board concluding that the permit should not be granted. Upon a consideration of the evidence the Board concludes the application should be granted. *Application for approval of transfer of permit from William G. Braem to Jacob V. Meola to operate bus on Riverside Route, Paterson* .....p. 284  
*See decision of the Supreme Court following above report*.....p. 286

#### BRIDGES.

Upon the record in this matter and after considering the evidence adduced the Board concludes that the bridge of the Belvidere-Delaware Bridge company crossing the Delaware River at Belvidere, New Jersey, is unsafely kept and maintained by the said company; that the said bridge is in such condition as to be dangerous to the public; and that it is desirable for the public interest and safety that repairs be made. Such repairs are ordered. *In the matter of condition of bridge of the Belvidere-Delaware Bridge Company at Belvidere, New Jersey* .....p. 454

#### CANALS.

The Board concludes that the period for closing the canal for navigation as heretofore determined by the Board is reasonable and the petitioner has not established any new fact or reason to change the previous order of the Board. *Application of the Delaware and Raritan Canal Company, Pennsylvania Railroad Company lessee, to extend the time during which the canal may be closed for repairs, and to abandon night service thereon* .....p. 460

#### COMPETITION.

While this return is not as high as the valuation of the property might justify under present day conditions if it were operating in a non-competitive field it is sufficiently high to enable the company to pay its operating expenses and yield what, in the Board's judgment, is a fair return upon valuation, particularly in view of the fact that the company entered into a field already for the greater part covered by a traction company. *In the matter of proposed increase in rates by the New Jersey and Pennsylvania Traction Company* .....p. 244

If a railway company sees fit to enter into a competitive field in a sparsely populated district it must be assumed that it has considered the risk of competitive conditions. It cannot expect a small

population to support two competitive utilities yielding each the same rate of fare or return on property which would be allowed if only one were in existence. *On rehearing of application of New Jersey and Pennsylvania Traction Company, for increase in rates.* .p. 329

## CONTRACTS.

Contracts entered into between carriers and shippers are subject to the police power of the State and the existence of such contracts between carrier and shipper does not estop the carrier with the authority of the State from advancing such rates where the same become unreasonable. *In the matter of rates charged by railroad companies operating in the State of New Jersey for the transportation of sand, gravel and broken stone between stations in this State* .....p. 79

The complainant denies the right of the respondent to charge for water supplied because of an ordinance requiring the company to furnish water free to the public schools. The power of the Board to fix rates despite the provisions of ordinances specifying rates has been sustained by our courts in a long line of cases. The company is being paid for all water supplied to the schools in the other municipalities served by it in accordance with the rates fixed by the Board. To countenance the furnishing of water free by the water company to the Somers Point Board of Education would involve a discrimination in violation of the statute. *In re charge for water supplied to Somers Point Public Schools by Atlantic County Water Company* .....p. 360

## DEPRECIATION.

The results of operations during the past ten years indicate that the accrued depreciation in plant has not been earned as a whole and that the value new should be taken as a basis for rates. For this purpose the sum of \$193,500 which includes working capital is assumed. *Cape May Illuminating Company—In re compliance with inspector's recommendations with respect to improvement in service and in re application for increased rates.*.....p. 112

In estimating charges to depreciation account the Board holds there should be a charge of substantially \$300,000 a year to make up past deficiencies and \$800,000 a year normal annual appropriation; the total of \$1,100,000 to be appropriated annually during the next five years, subject to change by order of the Board as the facts may warrant. *Investigation of the reasonableness of the rates of the Public Service Railway Company.*.....p. 140

On petition of the predecessor to the existing company for approval of an increase in rates the value of its property was fixed at \$250,000 on the basis of reproduction cost new, less depreciation. The property was sold to a committee representing the bondholders at public sale for \$60,000. The par value of the bonds was \$100,000. A claim is made of additional costs and loss of interest making the

cost to the bondholders \$125,000. This sum, by stipulation, is taken as the basis for rates in this proceeding. An allowance of three per cent on \$125,000 is regarded as an adequate allowance for depreciation. *Application of the Pleasantville Gas Company for further increase in rates* .....p. 236

#### DISCRIMINATION.

To countenance the furnishing of water free by the water company to the Somers Point Board of Education would involve a discrimination in violation of the statute. *In re charge for water supplied to Somers Point Public Schools by Atlantic County Water Company* .....p. 300

The adoption of uniform rate schedules applicable throughout the entire territory served by the company is proper and is not unduly preferential or unduly discriminatory in favor of or against any municipality. *Application of the Commonwealt Water Company for further increase in rates* .....p. 423

#### EXTENSIONS OF FACILITIES.

That extensions numbered A, B and C constitute reasonable extensions of the company's existing facilities providing the following conditions are complied with: (a) With respect to the extension of main described under caption A, consisting of 3,950 feet of main with eight hydrants, and serving 30 houses, the company is to receive an assurance of a total revenue of \$1,154 per annum. (b) With respect to the extension of main described under caption B, consisting of 700 feet of main with one hydrant, and serving eight houses, the company is to receive an assurance of a total revenue of \$214 per annum. (c) With respect to the extension of main described under caption C, consisting of 550 feet of main with one hydrant, and serving four houses, the company is to receive an assurance of a total revenue of \$154 per annum. (d) That the assurance of revenue recited under (a), (b) and (c) are to be in such form that the company could, if necessary use them as a basis to negotiate a loan to enable it to finance either or all of said extensions. (e) That with respect to each future customer along each of said extensions, the excess of annual revenue over \$7.10 shall be credited to the guarantee on said extension. (f) When the total aggregate revenue from the customers on any of extensions A, B and C at the legal schedule of rates (after deductions indicated in (e) shall have been made) shall equal the assurance herein provided for, the assurance shall cease and determine. That on proof that all the conditions as outlined in (1) with respect to any or all of the extensions have been complied with, the Board will, on application by the complainant within sixty days from date hereof, order the extension or extensions so guaranteed to be made forthwith. *Borough of Fair Haven vs. Tintern Manor Water Company—In re extension of mains* .....p. 89

The Board is of the opinion that the financial condition of the respondent reasonably warrants the necessary expenditure for the purpose of making this extension provided a suitable revenue guarantee is made by the petitioner. Due to the difficulty of financing any extension at the present time it is considered equitable to compute the capital return on the new investment at 8 per cent. The Board is not justified in ordering the extension of the main at the present time unless the customers to be served are able and willing to provide a satisfactory guarantee that the fixed and operating charges will be met. *The Wellwood Park Improvement Association, Incorporated vs. Merchantsville Water Company—In re extension of service* .....p. 322

**ELECTRIC COMPANIES.** See RATES—SERVICE.

#### FRANCHISES.

The company's estimate of gas supplied for street lighting appears to include gas furnished free in accordance with franchise provisions. The Board must assume in developing just and reasonable rates for all classes of service that the company will receive the schedule rates for such service including street lights. Metered service furnished free under franchise provisions should also be paid for at schedule rates. This is increasingly more important in view of the high cost of furnishing gas and in view of the fact that the gas is furnished free in only a few localities out of the many served by the applicant. *Application of the New Jersey Gas Company for further increase in rates* .....p. 30

**GAS COMPANIES.** See RATES—SERVICE.

#### GOING VALUE.

Consideration is given to promotion expenses in determining development costs as going value. *In the matter of the investigation of the reasonableness of the rates of the Public Service Railway Company* .....p. 140

In view of the settled law on this subject in this State and in the United States, the question of making an allowance for going value is no longer open to discussion. That a going concern has a value over and above the value of the physical property employed is self-evident. From the very nature of this element of value it cannot be arrived at with accuracy, but must necessarily be considered in the light of all the facts in each particular case. The Public Service Railway Company is an amalgamation of a large number of separate entities. As a result there is a uniform operation which gives to the system as a whole a greater value than would accrue from the operation of its numerous parts as separate and distinct units. After giving due consideration to all the evidence bearing upon that element of value known as "going value," and to all the facts having any bearing upon the matter, the Board finds and determines that an allowance for going value is reasonably repre-

sented by \$12,000,000. *In the matter of the investigation of the reasonableness of the rates of the Public Service Railway Company* .....p. 140

#### GRADE CROSSINGS.

The practice of the Board respecting applications for new crossings at grade, relocation of tracks and additional tracks, has generally been to require the consent of the local municipality prior to the Board passing on the applications; but as safe and adequate service requires that the new bridge be placed in operation as soon as practicable, the Board will grant permission to relocate the tracks in accordance with the plan submitted, but without prejudice to the legal requirements of the City of Newark. *Application of the Newark and Hudson Railroad and the Erie Railroad for permission to relocate tracks at grade across Passaic Street and Fourth Avenue, in the City of Newark* .....p. 384

HEATING STANDARD. *See* SERVICE—GAS COMPANIES.

#### HISTORICAL COST.

When used for the purpose of aiding in the determination of the value of property at the present time, "historical cost" is the cost as shown by records of so much of the property as is found in place today. In determining value based upon original cost, it may be necessary to make certain deductions for accrued depreciation and certain additions for appreciation, but the result so obtained has reference to value and not at all to cost. An analysis of the testimony and exhibits relating to historical costs of this property, taking into account the various corrections made on cross-examination, shows a total historical cost of railway property existing December 31, 1920, of \$72,779,345. *Investigation of the reasonableness of the rates of the Public Service Railway Company*.....p. 140

#### INTEREST DURING CONSTRUCTION.

For items other than land the Board finds and determines that the rate of interest allowable during construction should be computed at a rate between six and three-quarters and seven per cent. upon the physical property for the entire construction period. *Investigation of the reasonableness of the rates of the Public Service Railway Company* .....p. 140

JITNEYS. *See* AUTO BUSES.

#### JURISDICTION.

The court has no power to fix the rate, for that is committed to the Public Utility Commissioners, but where the order made is not supported by the evidence, the court has the power to set aside the order and remand the proceeding to the Commissioners to fix a just and reasonable rate based on the evidence. *Decision N. J. Supreme Court, Public Service Railway Company vs. Board of Public Commissioners* .....p. 69

The power of the Board to fix rates despite the provisions of ordinances specifying rates has been sustained by our courts in a long line of cases. *In re charge for water supplied to Somers Point Public Schools by Atlantic County Water Company*.....p. 360

#### MERGERS.

There must be approved by the Board a general mortgage securing the payment of the additional two per cent. interest on a proposed issue of first mortgage bonds before approval can be given to the issuance of the latter. An agreement of merger and consolidation must be submitted before a petition asking for approval of such merger and consolidation is granted. *Application of the Morris and Somerset Electric Company for approval of the issuance of \$450,000 first mortgage bonds, the acquisition of the capital stock of the Boonton Electric Company and the Merger and Consolidation of the latter with the petitioner* .....p. 379

#### METERS.

Complaint is made that a water company insists upon the installation of a water meter. Upon consideration of all the facts, the Board is of the opinion that the company is justified in insisting upon the installation of meters where there are additions to the service involving a greater consumption of water; and it being admitted that a power washing machine is now on the premises of the complainant the company's insistence upon installing a meter is not discriminatory. *Mrs. I. S. Williams vs. Riverton and Palmyra Water Company* .....p. 316

Customers of the following classes should be discontinued as flat-rate customers and served through meters: barber shops, bake shops, butcher shops, drug stores provided with soda fountains, any store having use for water other than for ordinary toilet facilities for private use, churches, public buildings and water motors. *In the matter of filing by Somerville Water Company of an increased water rate schedule* .....p. 412

ORDINANCES. See CONTRACTS.

RAILROADS—CROSSINGS. See GRADE CROSSINGS.

#### RAILROADS—STATIONS.

As the necessity for an agent is apparent at Avalon and Peermont to afford required stational convenience during the period that business warrants, the Board under present conditions will approve of an agent to be on duty from May 1st to November 1st; also that stations be kept open and maintained for the convenience of passengers during remaining months of the year. *Application of the West Jersey and Seashore Railroad Company to discontinue maintaining an agent at Avalon and Peermont*.....p. 332

The necessity for the presence of an agent or clerk for a portion of the day is manifest and arrangement should be made to have a representative at the station from eight A. M. until one-thirty P. M. daily excepting Sundays; also that the station be kept open during the hours it is at present open for the convenience of passengers. *Application of the West Jersey and Seashore Railroad Company to discontinue maintaining an agent at Buena*.....p. 338

As the expense of maintaining the agency at Forest Grove represents so large a percentage of the total revenue, if the company is to be permitted to decrease operating expenses, reductions must be made in items least affecting the general operations of the property. For the present the company should be permitted to discontinue the services of the agent, and if future conditions change to the extent of warranting the reestablishment of an agent the matter will be given further consideration. *Application of the West Jersey and Seashore Railroad Company to discontinue maintaining an agent at Forest Grove* .....p. 340

The amount of business, both passenger and freight, is small and as the salary required to be paid the agent at Allaire is about \$1,600 per year, more than twice the amount of the total revenue for the year 1920-21, it does not seem reasonable that the company should be required to maintain an agent under existing conditions. *Application of the Pennsylvania Railroad Company to discontinue maintaining an agent at Allaire* .....p. 341

While the reasonableness of the company's desire to reduce operating expenses under present conditions warrants consideration, in view of the volume of passenger business it does not appear that the company would be warranted in discontinuing the agency. *Application of the New Jersey and New York Railroad Company to discontinue maintaining an agent at Hillsdale Manor* .....p. 364

While the desire of the company to reduce operating expenses is recognized, due consideration should be given to the convenience afforded by an agent at a point where a fair amount of business is done and a progressive increase in revenue is shown. Under the circumstances, the Board would not be warranted in permitting a reduction of operating expenses by dispensing with the services of the agent. *Application of the New York, Susquehanna and Western Railroad Company to discontinue maintaining the agent at Crystal Lake* .....p. 365

The salary of the agent who it is proposed to discontinue is \$1,244.64 per annum, representing 40 per cent. of the revenue for the year 1920-21. Under present conditions a regular agent must receive the standard wage scale required by the Federal Board, and, as the cost of the Morsemere agency represents so large a percentage of the revenue, it would not be reasonable to require its continuance. *Application of the Erie Railroad Company to discontinue maintaining an agent at Morsemere* .....p. 366

As the expense of maintaining the agency at Kearny represents so large a percentage of the total revenue, and a reasonable saving would result to the company by the elimination of an item of expense that could be made without resulting in unreasonable inconvenience, the Board concludes that for the present the company should be permitted to discontinue the services of the agency at Kearny, upon condition that sixty-trip, fifty-trip and ten-trip Kearny tickets can be obtained at Harrison station. *Application of the Erie Railroad Company to discontinue maintaining an agent at Kearny*..p. 368

As the portion of the station expenses chargeable to salary of agent is disproportionate with the revenue, it does not seem reasonable that the company should be required to maintain an agent under existing conditions. Approval is given to discontinuance of station agency at Woodside upon condition that sixty-trip, fifty-trip and ten-trip Woodside tickets can be obtained at the North Newark and Belleville Stations. *Application of the Erie Railroad Company to discontinue maintaining an agent at Woodside*.....p. 369

Approval is given to discontinuance of agency provided the company has a representative at the station for transaction of necessary business from 7 A. M. until 9 A. M. and keeps the station open covering hours now in effect. *Application of the Erie Railroad Company to discontinue maintaining an agent at Orange*.....p. 371

For the present the company should be permitted to discontinue the services of the agent at Riverside, upon condition that sixty-trip, fifty-trip and ten-trip Riverside tickets can be obtained at North Newark and Newark Fourth Avenue Stations. *Application of the Erie Railroad Company to discontinue maintaining an agent at Riverside* .....p. 372

Application to discontinue an agency is denied where it appears that the passenger business is of such volume as to reasonably warrant the necessity of maintaining an agent for the convenience of the company's patrons. *Application of the Erie Railroad Company to discontinue maintaining an agent at South Paterson*.....p. 373

Application to discontinue an agency is denied where the salary of the agent represents but 15.8 per cent. of the annual revenue, and material inconvenience would result. *Application of the Erie Railroad Company to discontinue maintaining an agent at Brighton Avenue* .....p. 375

A petition to remove an agent is denied where the salary of the agent is but 17.8 per cent. of the annual revenue and material inconvenience would result. *Application of the Erie Railroad Company to discontinue maintaining an agent at Prospect Street*.....p. 376

As the public would not suffer material inconvenience and the expense of maintaining an agent at Tranquility approximates 60 per cent. of the total yearly revenue, it is held not to be unreasonable under existing conditions to permit the removal of the agent. *Application of the Lehigh and Hudson River Railway Company to discontinue maintaining an agent at Tranquility*.....p. 377

Application to change the name of a station is denied where the evidence shows that more confusion and inconvenience would exist if the change is made. *Application of the Borough of East Paterson for change of name of station on New York, Susquehanna and Western Railroad from Dundee Lake to East Paterson*.....p. 410

### RATE OF RETURN.

Mere failure to earn a proper return on a line which is part of a system is not sufficient ground for its abandonment. *In the matter of the abandonment of portion of the line and removal of tracks of the Bridgeton and Millville Traction Company*.....p. 6

To obtain a return of seven per cent. on the rate base and meet operating expenses and taxes a total revenue for the year of \$63,461 will be required. Of this \$4,367 it is estimated should come from a service charge to metered customers, \$46,308 from sales of gas to such customers, \$4,874 from street lights and \$9,892 from sales of gas to the other company. *Application of the Ocean County Gas Company for further increase in rates*.....p. 16

In determining the rates to be charged by a gas company the value of the tangible property as a basis for rates is taken as \$1,192,731. To this \$115,395 is added for intangible fixed capital and \$65,400 equal to five per cent. of the sum so obtained is added for working capital. The total amounts to \$1,373,500. The company asks that the Board allow it an 8 per cent. return on the fair value of its property devoted to the public use. In view of the fact that the trend of prices is distinctly downward the Board allows the amount of net revenue derived in 1916, viz., \$90,000. *Application of the New Jersey Gas Company for further increase in rates*.....p. 30

An electric railway company is authorized to increase its fare from seven cents to eight cents. The increased rate is not calculated to yield to the company the revenue to which it is entitled upon the capitalization approved by the Board but is the maximum the traffic will bear. *Application of the Salem and Pennsgrove Traction Company for an increase in rates*.....p. 76

The increased rates submitted are approved, it appearing that after paying operating expenses and taxes the net revenue will not provide a return of even six per cent. on the original cost of the property. *Application of the Vincentown Water Company for increased rates*.....p. 86

The Board regards it as useless to consider any particular rate of return on the value of the petitioner's property as it does not appear possible to fix any schedule of charges which would enable it to obtain net income sufficient to pay a reasonable return on such value. The Board will allow such rates as in its judgment the value of the service justifies and which are not higher than the traffic can reasonably bear. *Application of the Bridgeton and Millville Traction Company for further increase in rates*.....p. 98

A total fixed capital of \$30,715 is fixed to which \$1,500 is added as working capital resulting in a rate base of \$32,215. On this a return of six per cent., or \$1,933, is allowed. The sum of \$1,610 is apportioned to metered gas service and \$325 to street lighting. *Application of the Medford Gas Company for further increase in rates* .....p. 105

A return of 6 per cent. is allowed on a rate base of \$193,500. Total operating expenses are estimated as \$50,385 and taxes at \$4,500. The total arrived at including the return is \$66,475. A deduction is made of \$1,500 for miscellaneous revenue, leaving \$64,975 which it is estimated amounts to \$2,572 per thousand cubic feet of gas sold. *Cape May Illuminating Company—In re compliance with inspector's recommendations with respect to improvement in service and application for increased rates* .....p. 112

The estimated net increase of \$185,000 added to the net income for 1920 results in a sum of \$343,000 which approximately is the estimated amount that would be obtained from an eight cent fare. The foregoing sum is nearly a seven per cent. return on the highest estimate of value of the company's property and approximately eight per cent. on the lowest. *Proposed increase in rates of the Trenton and Mercer County Traction Company* .....p. 129

A return of slightly over seven per cent. on valuation held to be fair. *Investigation of the reasonableness of rates of the Public Service Railway Company* .....p. 140

While this return is not as high as the valuation of the property might justify under present day conditions if it were operating in a non-competitive field, it is sufficiently high to enable the company to pay its operating expenses and yield what, in the Board's judgment, is a fair return upon valuation, particularly in view of the fact that the company entered into a field already for the greater part covered by a traction company. It would be unreasonable to compel the public to pay a rate of return at present day rates upon unlimited duplication of facilities. *In the matter of proposed increase in rates by the New Jersey and Pennsylvania Traction Company*.....p. 244

If the additions to property above set forth and absolutely needed in order that the company would be in a position to furnish safe, adequate and proper service to its customers were now in place, the

value upon which present rates should be based is slightly upwards of \$400,000 and the anticipated net return would be about 6.7 per cent. on this latter figure. *Borough of Barrington vs. New Jersey Water Service Company—In re inadequate service and application of the New Jersey Water Service Company for approval of increased rates* .....p. 380

The Board does not accept the company's contention that an eight per cent. return should be allowed. If a company has a long record of efficient operation, during which it has earned eight per cent. or more upon the property devoted to the public service the Board is inclined to allow a higher rate of return than to a company whose history shows it has been rarely able to earn an eight per cent. return under rates fixed by itself and admittedly satisfactory to it. The Board does not construe the statute under which it has been created or the decisions of the courts to impose the duty of fixing a uniform rate of return for all utilities. To do so would be in a sense a discrimination against the utility which has been efficiently managed and operated and would reward beyond its deserts the poorly managed utility or one less fortunately situated with respect to the size of the community it serves and the growth and development of its business. Taking into consideration the recent history of the company the Board holds that the rate of return the company should be permitted to earn upon the valuation accepted should be slightly in excess of seven per cent. *In the matter of filing by Somerville Water Company of an increased water rate schedule*...p. 412

To hold that when the Board fixes a rate of return that rate must be earned or the deficits made good by the allowance of higher rates is to mortgage the future to the company. All that a Board can be expected to do is to fix what is a fair rate under the conditions existing at the time. It should not be held as a guarantor of the rate nor of stable conditions in the business. *Application of the Commonwealth Water Company for further increase in rates*.....p. 423

#### RATES—ELECTRIC COMPANIES.

Application is made by an electric utility for such increase in rates as will provide a reasonable yearly sum for amortization purposes and pay current debts, interest on bonded indebtedness of \$50,000 and such additional sum thereto as to the Board may seem proper. A total of \$49,000 is taken as a basis for rates. Allowing a return of seven per cent. on this amount it is estimated \$28,715 will be required to provide such return and meet production and other expenses including \$1,440 for depreciation. A rate schedule is fixed estimated to produce \$28,019, the difference being due to disallowance of an increase in charges for street lighting for which the company is under contract that does not expire until June 1, 1922. The Board holds the company must absorb the loss in the amount allowed for return until the contract expires. *Application of the Washington Electric Company for further increase in rates*.....p. 290

On February 27th, 1918, the Board authorized the Public Service Electric Company to file amended tariffs providing for a war surcharge of twenty-five per cent. to each bill of its wholesale and kilowatt year customers and each bill of its retail power customers. The same surcharge was allowed on schedules for break down service, the refrigerator rate and elevator rate. A coal clause providing for additional charges dependent upon the prices of coal beyond a certain minimum was also authorized. The charges authorized were designed to provide revenue to enable the company to pay its rentals, dividends of eight per cent. on its capital stock and to appropriate a sufficient sum to general amortization. On July 30th, 1919, the Board abrogated the surcharge, as it affected customers supplied under the uniform power and the elevator rates. It now being apparent that the company is earning enough without the surcharge to pay its rentals, dividends of eight per cent. on capital stock to appropriate an ample amount for amortization of fixed capital as well as a substantial surplus, the Board is of the opinion that with the entire abrogation of the twenty-five per cent. surcharge the company will have a sufficient net income to assure the continuance of safe, adequate and proper service, and to enable it to market its securities and finance the necessary extension required by the growth of its business. *In the matter of modification of the electric power rates of Public Service Electric Company.....p.* 405

#### RATES, EXPENSES, IN INVESTIGATIONS OF.

Expenses in connection with investigations of rates should not be included as a proper cost in any one year. It would appear that this item of cost should be charged uniformly throughout a period of seven years. *Application of the Commonwealth Water Company for further increase in rates.....p.* 423

#### RATES—GAS COMPANIES.

Application is made by a gas company for an increase of 18 cents per thousand cubic feet in its rate for gas. Giving due consideration to all the conditions the Board is of the opinion that the increase petitioned for would not be unlawful or opposed to the welfare of the community served or the reasonable requirements of the company. *Application of the City Gas Light Company for increase in rates .....p.* 2

Increase in rates allowed to meet necessary operating expenses and provide return on additional capital required to improve service. *Wildwood Gas Company—In re service and in re rates.....p.* 8

Of the total of \$182,150, fixed as the value of the property of a gas company for a rate base, it is held that \$13,315 should be assigned to street lighting service, \$135,437 to the service of domestic consumers and \$23,398 to the service of another gas company, which sells gas bought in bulk from the company under consideration. To obtain a return of seven per cent. on the rate base and meet operating expenses and taxes, a total revenue for the year of \$63,461

will be required. Of this \$4,367 it is estimated should come from a service charge to metered customers, \$46,308 from sales of gas to such customers, \$4,874 from street lights and \$9,802 from sales of gas to the other company. A schedule of rates estimated to provide the above-mentioned amounts is fixed. *Application of the Ocean County Gas Company for further increase in rates.....p.* 16

The Tuckerton Gas Company buys its gas from the Ocean County Gas Company. The Board has fixed a price to be charged by the Ocean County Gas Company to the Tuckerton Company of \$1.90 per thousand cubic feet. It is assumed that the latter company will pay this price for gas. A return of \$1,500 is allowed upon the company's property in service. To provide for this return, purchase of gas, other operating expenses and taxes, it is estimated \$14,160 will be required; of this \$3,229 is allocated to street lights and \$10,931 to metered service. A schedule of rates consistent with the foregoing is fixed. *Application of the Tuckerton Gas Company for further increase in rates.....p.* 25

In determining the rates to be charged by a gas company the value of the tangible property as a basis for rates is taken as \$1,192,731. To this \$115,305 is added for intangible fixed capital and \$65,400 equal to five per cent. of the sum so obtained is added for working capital. The total amounts to \$1,373,500. The company's estimate of gas supplied for street lighting appears to include gas furnished free in accordance with franchise provisions. The Board must assume in developing just and reasonable rates for all classes of service that the company will receive the schedule rates for such service, including street lights. Metered service furnished free under franchise provisions should also be paid for at schedule rates. This is increasingly more important in view of the high cost of furnishing gas and in view of the fact that the gas is furnished free in only a few localities out of the many served by the applicant. The company asks that the Board allow it an 8 per cent. return on the fair value of its property devoted to the public use. In view of the fact that the trend of prices is distinctly downward the Board allows the amount of net revenue derived in 1916, viz., \$90,000. A study of the property shows that 3.53 per cent. should be assigned to street lamps and the remainder 96.47 per cent. to metered service. It is estimated that to provide for operating expenses and taxes and a return of \$90,000, the sum of \$437,800 will be required. Of this \$417,110 should come from metered service and \$20,690 from street lighting. In fixing a schedule of rates to be charged it is required that in a part of the territory served, where the service is admittedly deficient and an order of the Board requiring improvements has not been complied with, the rate charged shall be ten cents per thousand cubic feet less than in other parts of the territory. *Application of the New Jersey Gas Company for further increase in rates.....p.* 30

A total fixed capital of \$30,715 is fixed to which \$1,500 is added as working capital resulting in a rate base of \$32,215. On this a return of six per cent. or \$1,933 is allowed. The sum of \$1,610 is apportioned to metered gas service and \$325 to street lighting. To afford the required revenue a rate of \$1.70 in addition to a service charge of 25 cents per month for individual customers and a charge of \$30.00 per annum for street lighting are allowed. *Application of the Medford Gas Company for further increase in rates*.....p. 105

The results of operations during the past ten years indicate that the accrued depreciation in plant has not been earned as a whole and that the value new should be taken as a basis for rates. For this purpose the sum of \$193,500, which includes working capital, is assumed. Unaccounted for gas amounting to approximately 38 per cent. of the average output in the years 1919 and 1920 does not show efficient management, and such inefficiency should not be charged to the consumers. In estimating the unaccounted for gas, 6,846 M. cu. ft. is allowed in a total production of 32,300 M. cu. ft. A return of 6 per cent. is allowed on a rate base of \$193,500. Total operating expenses are estimated as \$50,385 and taxes at \$4,500. The total arrived at including the return is \$66,475. A deduction is made of \$1,500 for miscellaneous revenue, leaving \$64,975, which it is estimated amounts to \$2,572 per thousand cubic feet of gas sold. A schedule of rates is fixed providing a minimum charge of seventy-five cents per month and a price per thousand cubic feet of \$2.55 for the first 5,000 cubic feet sold with decreases for larger quantities consumed. *Cape May Illuminating Company—In re compliance with inspector's recommendations with respect to improvement in service and application for increased rates* .....p. 112

In a decision filed July 27th, 1920, the Board authorized an increase in rates designed to afford the petitioner sufficient additional revenue to meet increased operating cost amounting to \$75,343. The company claims that the increased charge allowed of 35 cents per thousand cubic feet applied to the quantity of gas sold results in additional revenue of but \$59,600. It asks that a yearly service charge applicable to summer customers be allowed or that it be advised from what sources the full amount of the estimated revenue should come. Since the rate was increased the Board has reduced the heating standard for gas and it appears also that the price of gas oil to the petitioner has materially decreased. It is estimated that the decreased cost of manufacture is more than sufficient to equalize the difference between the actual revenue and that estimated in the prior proceeding. The petition is denied. *In the matter of the collection of a service charge by the Coast Gas Company*.....p. 136

On petition of the predecessor to the existing company for approval of an increase in rates the value of its property was fixed at \$250,000 on the basis of reproduction cost new, less depreciation. The property was sold to a committee representing the bondholders at public sale for \$60,000. The par value of the bonds was \$100,000. A claim

is made of additional costs and loss of interest making the cost to the bondholders \$125,000. This sum, by stipulation, is taken as the basis for rates in this proceeding. An allowance of three per cent. on \$125,000 is regarded as an adequate allowance for depreciation. Making allowances for decreased costs of production, deducting amounts which appear to be excessive in the company's estimate of operating expenses and depreciation and for additional revenue from increased rates heretofore allowed the Board finds that the schedule of rates petitioned for is unjust and unreasonable. *Application of the Pleasantville Gas Company for further increase in rates*.....p. 236

An agreement was reached after conference between representative of a gas company and of the municipality served, which provided for increased rates and improved service. The Board finds that the rates agreed upon are reasonable and fair to both parties concerned and probably as low as the Board would have been justified in ordering put into effect after further and possibly protracted hearings. The rates agreed upon are authorized subject to the condition that plant improvements be made and that the installation and maintenance of meters and services from main to curb will be at the expense of the company. *Application of the Newton Gas Company for increased rates* .....p. 457

In investigating the reasonableness of the rates charged by the Public Service Gas Company the first question to be determined is whether or not the counties of Essex, Bergen and Hudson shall be given a divisional rate or whether the rate shall be a company wide rate. The Board holds that when no appraisal of the property in any division other than the Passaic Division is before it, and in view of the practice adopted heretofore, the rate for the present and until such time as it may be possible to obtain an appraisal of the company's property in toto, shall be continued as a company wide rate. Reproduction cost new in a period of inflation is not a proper basis for valuation for the purpose of fixing a rate although some consideration should be given to an allowance for appreciation of a company's property in view of present economic conditions. An estimate of value based upon the general trend of prices is a better test than cost to reproduce on a certain date. The fair value of the company's property in the Passaic Division is placed at \$6,500,000, on which a return of eight per cent is allowed. It is determined that, by reason of decrease in costs, the rates for metered consumption of gas filed pursuant to the Board's finding of August 4th, 1920, are no longer just and reasonable. A schedule of rates to be charged is fixed. *In the matter of the rates charged for gas by the Public Service Gas Company* .....p. 465

#### RATES—RAILROAD COMPANIES.

Contracts entered into between carriers and shippers are subject to the police power of the State and the existence of such contracts between carrier and shipper does not estop the carrier with the authority of the State from advancing such rates where the same be-

come unreasonable. The character of the commodities transported, their weight, the space they occupy, the kind of equipment used, the service rendered, the value of the commodity itself and the damage or loss of injury liable in transportation, are all elements that must necessarily be considered in any determination seeking to ascertain the justness and reasonableness of a proposed rate. The average distance hauled and the service of loading and unloading are also elements. From all the testimony presented, it is held that the imposition of 40 per cent. upon the rates existing under General Order 28 would be excessive, discriminatory, unjust and unreasonable as applied to these low grade commodities moving only short distances as is the fact within this State. The imposition of 15 per cent. upon the rates existing and charged by the railroads prior to the increase authorized by the Interstate Commerce Commission in Ex Parte 74 would be just and reasonable. The imposition of this percentage will remedy the discrimination caused by General Order No. 28, as between these commodities and all other commodities affected by that order, and will also bring the New Jersey rates into appropriate alignment with the rates on these commodities in adjoining states. *In the matter of rates charged by railroad companies operating in the State of New Jersey for the transportation of sand, gravel and broken stone between stations in this State.*.....p. 79

In permitting the application to intra-state rates of the 40 per cent. increase which was put in effect as a result of I. C. C. Ex Parte No. 74, the Board did not hold that such increase would result in just and reasonable rates upon all classes of commodities affected. Reference was made at the time to protests against increases in rates on shipments of iron ore between New Jersey points and the Board stated that if the complainants so desired it would afford them hearing on application to reduce these rates. The Board has endeavored to eliminate the inequalities which crept into the intra-state rates for iron ore as a result of the several flat increases made heretofore and concludes an increase of 15 per cent. should be allowed instead of 40 per cent. The rates fixed recognize substantially the same differentials which existed in the rate structure applicable for an extended period prior to the first of the increases. They are generally consistent with rates charged by the respondent and other carriers for comparable intra-state hauls in New Jersey of iron ore and other commodities having like general characteristics. *Ringwood Company vs. Erie Railroad Company et al., and Pequest Company vs. Delaware, Lackawanna and Western Railroad Company—In re rates on iron ore* .....p. 439

#### RATES—SEWERAGE COMPANIES.

A schedule providing for increased rates by a sewer company is allowed, it appearing that the earnings of the company are not sufficient to pay increased operating expenses since the Board approved its rates in 1918 and to pay interest on bonds authorized by the Board. *Proposed increase in rates by the Ocean City Sewer Company* .....p. 45

## RATES—STREET RAILWAYS.

The petitioner's property was sold in 1910 at receiver's sale, the bondholders purchasing it for \$120,000. It was testified at the time that the property was probably worth the bonds paid for it, which then had a face value of \$400,000. The company also submitted an appraisal of its property showing original cost of \$343,004 and reproduction cost of \$530,917. For the year 1919 gross operating revenues were \$78,500, including \$1,925 miscellaneous revenues. Deducting the latter leaves \$76,575 as the amount of passenger revenue. It is estimated the operating expenses and taxes for the coming year will be \$79,190. Adding to this \$9,025 depreciation allowance previously fixed by the Board makes \$88,815 total of revenue deductions. The Board determines an increase from five cents to seven cents in each of the company's fare zones should be approved, subject to the condition that the company arranges to transport passengers throughout the zone extending from Chester Avenue, in Moorestown, to Hartford instead of from Hartford to Borton's Landing Road. *Application of the Burlington County Transit Company for increased rate:* .....p. 51

The railway company bases its present application for an increase in rates on the theory adopted by the Board in former proceedings in which increases were allowed; that is to say, that the rate applied for is an emergency rate. At the time an emergency increase was allowed this country was in active participation in the war, a crisis was imminent and it was ascertained that in order to render the public continuous safe, adequate and proper service the company required additional revenue and it was determined that the existing rate was insufficient. In the opinion of the Board, there is no such emergency present as would require it to fix any other rate in excess of the existing rate without consideration of all the elements recognized as being entitled to consideration in a proceeding to fix a just and reasonable rate. Under all conditions, a result based upon an investigation with a full consideration of the various factors necessarily requiring consideration for the fixation of a just and reasonable rate would be more just to both the public and the company than one based upon the few factors presented in and necessarily the only ones considered in emergency cases. Analysis of operating revenues and expenses indicates that the company is not in such urgent need of revenue as would preclude its continuing furnishing service for the time required to complete the collateral case in which the value of its property is being considered. The Board is not satisfied from the proofs offered by the company that it is at this time in need of the relief to be afforded by the schedule as filed nor is it satisfied that it should at this time be granted any further increase in the present schedule of fares. *Application of the Public Service Railway Company for a further increase in rates:* .....p. 57  
*See Decision of Supreme Court following report of the Board:* ....p. 60

The appraised value of the physical property of the company as of December 31st, 1917, is \$2,514,563. Net expenditures for capital purposes between that date and October 31st, 1920, were \$10,192.88, making a total present physical value of \$2,524,755.88. The outstanding securities amount to \$2,296,650. The value of the physical property without any allowance for intangibles of any kind is in excess of the total amount of the securities issued. Under the proposed rates the estimated operating revenues are approximately \$414,000. The operating revenue deductions are \$317,000, leaving an operating income of approximately \$94,000. The income deductions of approximately \$104,000 result in an estimated loss of more than \$9,000. An analysis of the estimated operating expenses would indicate that they are excessive but not to the extent of materially affecting the result. The Board is satisfied the proposed rates are not unjust or unreasonable and will not produce an excessive return on the physical value of the property. *In the matter of the increase in its schedule of rates for transportation by the Public Service Railroad Company* .....p. 74

An electric railway company is authorized to increase its fare from seven cents to eight cents. The increased rate is not calculated to yield to the company the revenue to which it is entitled upon the capitalization approved by the Board but is the maximum the traffic will bear. *Application of the Salem and Pennsgrove Traction Company for an increase in rates* .....p. 76

The Board regards it as useless to consider any particular rate of return on the value of the petitioner's property as it does not appear possible to fix any schedule of charges which would enable it to obtain net income sufficient to pay a reasonable return on such value. The Board will allow such rates as in its judgment the value of the service justifies and which are not higher than the traffic can reasonably bear. An increase in fare from six cents to ten cents is disapproved, the Board holding that this would defeat its own purpose and the net income of the property would not be increased in the way necessary to preserve the service for the benefit of the riding public. Increases in part of the system from six cents to seven cents and in another from six cents to eight cents are allowed. Fares of school children are fixed at one and one-half cents per mile and freight rates are adjusted. *Application of the Bridgeton and Millville Traction Company for further increase in rates* .....p. 96

In considering a proposed increase in fare by a street railway from seven cents to ten cents the Board had before it estimates of the value of the company's property ranging from \$3,957,056 to \$5,000,000. Operating revenues for the year 1920 amounted to \$1,401,863; operating expenses and taxes to \$1,248,244, leaving a net operating revenue of \$153,619, to which is added \$4,315 non-operating income. If the company is allowed an increase of one cent in the rate of fare, the increase in net revenues will be approximately \$195,000. There should be deducted from the \$10,000 additional tax to be paid on

account of increased gross receipts, leaving \$185,000 net. The estimated net increase of \$185,000 added to the net income for 1920 results in a sum of \$343,000, which approximately is the estimated amount that would be obtained from an eight cent fare. The foregoing sum is nearly a seven per cent. return on the highest estimate of value of the company's property and approximately eight per cent. on the lowest. The Board is not satisfied that a fare of ten cents is just and reasonable. If such fare should be charged and the number of passengers as estimated by the company should be carried, the return to it would be more than it is fairly entitled to receive. If the result of such fare should materially curtail use of the service its value would be lessened to the public and the company might not obtain more revenue than would accrue under an eight-cent fare. The Board holds the existing rate of fare of seven cents to be unreasonable and authorizes a fare of eight cents to be charged with a continued charge of one cent for a transfer. *Proposed increase in rates of the Trenton and Mercer County Traction Corporation.....* p. 120

The Board finds and determines:

(1) That the value of the property of the company used and useful in the public service is \$82,000,000. (2) That the operating expenses of the company, including taxes and depreciation, will not exceed \$21,708,000. (3) That a return of \$5,842,500 is a fair return upon the above valuation. (4) That such return will give to the company a rate of slightly over seven per cent. upon such valuation. (5) That the total requirements of the company, including the said return of \$5,842,500, will be \$27,550,641. (6) That the increase in the charge for a transfer from one cent to two cents will produce an additional income of approximately \$715,000 a year to the company. (7) That such increase in the charge for transfers, together with the reduction in cost of operation and wages and the other adjustments in operating expenses as found by the Board, will produce a sufficient revenue to enable the company to meet all its requirements for operating expenses, taxes and depreciation and will afford a reasonable return upon the value of the property used and useful found by the Board. *Investigation of the reasonableness of the rates of the Public Service Railway Company.....* p. 140

An order denying an increase in rates was appealed to the Supreme Court, which reversed the action of the Board, declaring that the evidence justified an increase in rates without regard to the pending valuation proceeding, which, under the instructions of the Legislature, was required to be determined within a limited time. The Board finds and determines upon the evidence that the allowance of two cents for a transfer instead of one cent as now charged will be, in connection with the company's existing charges, a just and reasonable rate and a compliance with the order of the Supreme Court. *Application of the Public Service Railway Company for a further increase in rates .....* p. 234

The petitioner, an electric railway operating between Trenton and Princeton, proposes to charge ten cents in each of four fare zones with commutation tickets good for single cash fare at the rate of \$1.00 per strip of 11 tickets and commutation school tickets sold at the rate of \$2.00 per strip of 40 tickets, the result being an increase of three cents per zone subject to the commutation rates. The objectors claim the fare proposed would exceed that of the Pennsylvania Railroad and the Trenton and Mercer Traction Corporation. If both the foregoing gave the same service to the public the Board would be unwilling to increase the rate of 28 cents which the petitioner now charges for the Trenton-Princeton ride. It appears that the service rendered by the petitioner is somewhat better as to schedules maintained and the character of equipment and roadbed. However, the Board does not believe that the value of the service to the passenger, in view of the competitive conditions, is worth more than 8 cents cash fare per zone, or 30 cents for the entire trip. While this return is not as high as the valuation of the property might justify under present-day conditions if it were operating in a non-competitive field, it is sufficiently high to enable the company to pay its operating expenses and yield what, in the Board's judgment, is a fair return upon valuation, particularly in view of the fact that the company entered into a field already for the greater part covered by a traction company. It would be unreasonable to compel the public to pay a rate of return at present-day rates upon unlimited duplication of facilities. *Proposed increase in rates by the New Jersey and Pennsylvania Traction Company*.....p. 244

A street railway company operating in New Jersey also across the Delaware River between Phillipsburg and Easton and in the city of Easton is permitted to increase its rate from five cents to seven cents; it appearing that the fare for the interstate fare and the fare in Easton is seven cents, and the revenues under the five-cent fare are insufficient. *Application of the Phillipsburg Transit Company for increase in street railway fares*.....p. 265

If a railway company sees fit to enter into a competitive field in a sparsely populated district it must be assumed that it has considered the risk of competitive conditions. It cannot expect a small population to support two competitive utilities yielding each the same rate of fare or return on property which would be allowed if only one were in existence. If the claims of the company on this application for a rehearing were well founded the deficit which it says would result through the alleged error would be approximately \$6,000. It appears, however, that the company has effected a reduction in wages amounting to \$6,000 a year. The Board was not aware of this when it filed its report. Even if the contention were true that the Board allowed \$6,000 less than was intended, this amount is offset by the saving in wages. The Board sees no reason to modify its order and the application is denied. *On rehearing of application of New Jersey and Pennsylvania Traction Company for increase in rates* .....p. 329

Complaint is made of a change by the Public Service Railway Company of routing of cars on its West Hoboken Line resulting in a charge for transfer. Held—The company should be permitted to make the change, but only upon condition that it will grant free transfers to passengers desiring to transfer for points beyond Courtlandt Street on such cars of other lines of the company as proceed north of that street on Summit Avenue. *Town of West Hoboken vs. Public Service Railway Company*.....p. 358

#### RATES—UNIFORM THROUGHOUT TERRITORY:

The adoption of uniform rate schedules applicable throughout the entire territory served by the company is proper and is not unduly preferential or unduly discriminatory in favor of or against any municipality. *Application of the Commonwealth Water Company for further increase in rates* .....p. 423

The Board holds that when no appraisal of the property in any division other than the Passaic Division is before it, and in view of the practice adopted heretofore, the rate for the present and until such time as it may be possible to obtain an appraisal of the company's property in toto shall be continued as a company-wide rate. *In the matter of rates charged for gas by the Public Service Gas Company* .....p. 465

#### RATES—WATER COMPANIES.

In the absence of a valuation and of other elements which should be considered in a rate case an application for an emergency increase in rates is denied, it not being apparent that there is an urgent necessity for the increase to provide service. *Proposed increase in rates by the Ocean City Water Company*.....p. 78

The increased rates submitted are approved, it appearing that after paying operating expenses and taxes the net revenue will not provide a return of even six per cent. on the original cost of the property. *In the matter of the application of the Vincenttown Water Company for increased rates* .....p. 86

A water company is permitted to increase its rates it appearing that with the increase the return to the company will be less than six per cent. on its tangible assets. *Application of the Gravity Water Supply Company for increase in rates*.....p. 280

Amendments to its rate schedule submitted by the petitioner are disapproved, but it is determined that the company is entitled to additional revenue owing to the prevailing high cost of operation. A schedule of rates is fixed providing for a demand of standby charge, governed by the size of meter, and block rates for water actually consumed. The rate for fire service is made up of two parts, a fixed service charge based on the inch-foot (inches in diameter times length in feet) of fire mains allocated to the municipality and a charge for

each hydrant. *In the matter of the proposed increase in rates by the Delaware River Water Company* .....p. 298

The Board finds that the schedule of rates submitted will not produce an excessive return upon the value of the property and permits the same to be filed. *Application of Laurel Springs Water Supply Company for increased rates* .....p. 318

In view of an agreement between a water company and its customers that increased rates might be charged, provided certain improvements were made in the company's plant increased rates were authorized to become effective following completion of the improvements agreed upon. *Application of the Blackwood Water Company for increase in rates* .....p. 343

The appraised value claimed of petitioner's property continued by actual additions to book cost to September 30th, 1921, is \$73,291. The appraisal shows \$4,932 for value of services purporting to be installed by the company. The company's annual report shows 406 service pipes in use of which 400 were installed at the expense of consumers. The appraisal, corrected for the item of services, may be taken in round figures at \$69,000 depreciated value, as contrasted with the investment costs (depreciated by the amount of the reserve for depreciation which has been accumulated by the company), in round figures \$57,600, the figures in both cases being of September 30th, 1921. The company is permitted to put into effect increased rates submitted, it appearing that the net revenue will equal 5.42 per cent. return on the investment of \$57,600 or 4.52 per cent. on the modified appraisal of \$69,000. *Application of the Clementon Spring Water Company for approval of a new schedule of rates*...p. 347

The value of this property for the purpose of fixing rates from the previous determinations of the Board, plus additions at actual cost, and after deduction of depreciation, is \$368,000. The increase in rates proposed by the company is estimated to produce a net income of about \$27,000, which is a net return slightly over 7 per cent. on the value determined above. If the additions to property above set forth and absolutely needed in order that the company would be in a position to furnish safe, adequate and proper service to its customers were now in place, the value upon which present rates should be based is slightly upwards of \$400,000, and the anticipated net return would be about 6.7 per cent. on this latter figure. The company should be required to make the improvements to its plant and system requisite in the proper performance of its public duty and in order that this may be accomplished the proposed rate increases must be made effective so that the company will be in a position to finance the needed improvements. On a number of occasions the Board has approved certain increases in rates on condition that certain improvements were to be completed before the increased rates became effective. Difficulties have arisen in financing such improvements prior to the stabilizing of the company's financial condition. The Board

will therefore allow the rates to become effective at an early date and will require the company to proceed with the work of installing the necessary improvements with a view to having them completed within eight months after the effective date of this order. The Board permits the company to file, effective for the quarter commencing January 1st, 1922, the schedule of rates proposed by it. *Borough of Barrington vs. New Jersey Water Service Company—In re inadequate service and application of the New Jersey Water Service Company for approval of increased rates.....* p. 389

In applying for approval of increased rates a water company estimates the value new of its property at present day prices as \$415,724. The amount of \$106,916 is deducted for accrued depreciation, leaving a present value of \$308,808. The value new based on pre-war prices for property acquired prior to 1916 plus additions since at the actual prices paid therefor is \$315,907. From this \$29,400 is deducted because of a thirty-inch main for which it is conceded a twenty-inch main might be substituted, leaving \$286,507. If to the pre-war value allowances should be added for structural overheads, going value and appreciation in consideration of excess of present day prices over pre-war prices and deduction made for accrued depreciation, the total value of the property would not be less than the \$308,808 claimed by the company as present value. This is accepted as the base on which rates should be allowed. The Board does not accept the company's contention that an eight per cent. return should be allowed. If a company has a long record of efficient operation, during which it has earned eight per cent. or more upon the property devoted to the public service the Board is inclined to allow a higher rate of return than to a company whose history shows it has been rarely able to earn an eight per cent. return under rates fixed by itself and admittedly satisfactory to it. The Board does not construe the statute under which it has been created or the decisions of the courts to impose the duty of fixing a uniform rate of return for all utilities. To do so would be in a sense a discrimination against the utility which has been efficiently managed and operated and would reward beyond its deserts the poorly managed utility or one less fortunately situated with respect to the size of the community it serves and the growth and development of its business. Taking into consideration the recent history of the company, the Board holds that the rate of return the company should be permitted to earn upon the valuation accepted should be slightly in excess of seven per cent. Customers of the following classes should be discontinued as flat rate customers and served through meters: barber shops, bake shops, butcher shops, drug stores provided with soda fountains, any store having use for water other than for ordinary toilet facilities for private use, churches, public buildings and water motors. A schedule of rates is authorized which is estimated will yield the return indicated and permit of reasonable enlargements and extensions. *In the matter of filing by Somerville Water Company of an increased water rate schedule.....* p. 412

To hold that when the Board fixes a rate of return that rate must be earned or the deficits made good by the allowance of higher rates is to mortgage the future to the company. All that a Board can be expected to do is to fix what is a fair rate under the conditions existing at the time. It should not be held as a guarantor of the rate nor of stable conditions in the business. After full consideration of the testimony in this case, and taking into account the reducing cost of money at the present time, the Board is of the opinion that a net return of the same amount previously allowed will bring to the company a fair net return. The gross revenue under present rates of \$371,703 for the twelve months ending September 30th, 1921, includes the revenue desired under the twenty per cent. increase granted by the Board in response to the company's petition for a twenty-five per cent. increase in rates in 1920. The net revenue for the twelve months amounted to \$128,451.68, which equals about 6.1 per cent. on the rate base of \$2,100,000. Expenses in connection with investigations of rates should not be included as a proper cost in any one year. It would appear that this item of cost should be charged uniformly throughout a period of seven years. The adoption of uniform rate schedules applicable throughout the entire territory served by the company is proper and is not unduly preferential or unduly discriminatory in favor of or against any municipality. The schedule filed by the company is based upon the assumption that an increase above the original basic schedule of about 31.7 per cent. is needed. The Board is of the opinion that a gross increase of about 24.6 per cent. or 4.6 per cent. above the 20 per cent. allowance of 1920 is all that is required to meet those parts of the company's claims which merit consideration. This increase is necessary to enable the company to finance improvements and will yield something over 7 per cent. *Application of the Commonwealth Water Company for further increase in rates.....p.* 423

#### REPRODUCTION COST.

Reproduction cost new in a period of inflation is not a proper basis for valuation for the purpose of fixing a rate, although some consideration should be given to an allowance for appreciation of a company's property in view of present economic conditions. An estimate of value based upon the general trend of prices is a better test than cost to reproduce on a certain date. *In the matter of the rates charged for gas by the Public Service Gas Company.....p.* 465

#### SECURITIES.

Issuance of \$46,000 first and refunding mortgage five per cent. bonds is approved with the proviso that the same shall not be sold or otherwise disposed of without the approval of the Board. *In the matter of the application of the Atlantic City Electric Company for approval of the issuance of \$46,000 in aggregate principal amount of its first and refunding mortgage five per cent. sinking fund gold bonds .....p.* 1

In a prior proceeding approval was given to an issue of bonds in the amount of \$45,000 to be exchanged at par for an equal amount of floating indebtedness representing all uncanceled net construction expenditures made before June 1st, 1920. A new application is made based upon an added net value of \$7,000 to property and the claim that the holders of the bonds as exchanged must obtain cash for them and they cannot be issued above the maximum legal rate of 80 per cent. of par value. The Board is of the opinion that bonds bearing interest at six per cent. should not be issued at less than 85. Approval is given to the issuance of bonds in the par value of \$61,000 to be sold at 85. *Application of the Cape May Light and Power Company for approval of an issue of bonds at 80 in the amount of sixty-five thousand dollars.....p.* 49

The Board does not usually regard with approval the practice of transferring the stock of a public utility of New Jersey to a foreign corporation. In this case, however, it appears that the circumstances are such that consent may be properly given. Approval is given upon condition that the Lambertville Public Service Company and the Flemington Electric Light, Heat and Power Company retire all their outstanding securities, debts, etc., and that the companies be completely dissolved, evidence of which shall be deposited with the Secretary of State in the manner prescribed by law. *Application of the Lambertville Public Service Company, Flemington Electric Light, Heat and Power Company and Newton Electric and Gas Company for leave to sell to the New Jersey Power and Light Company their property and franchises.....p.* 253

The amount of securities which would be outstanding after the proposed consolidation is effected, if approval is given to the company's plan, is so far in excess of any proven value that the Board is unable to give approval to the consolidation as proposed in the application of the company. *Application of the New Jersey and Pennsylvania Traction Company et al., for approval of Consolidation agreement .....p.* 313

Application is made for approval of issuance of \$25,000 preferred stock. The value of the property is estimated at \$45,000. Issues of stock heretofore approved total \$18,000. There is outstanding a mortgage of \$6,500. Approval is given to the issuance of \$20,500 preferred stock at par. *Application of the Raritan Valley Hydro-Electric Company, Inc., for the approval of the issuance of its preferred stock to the amount of \$25,000.....p.* 354

The complainant denies the right of the respondent to charge for water supplied because of an ordinance requiring the company to furnish water free to the public schools. The power of the Board to fix rates despite the provisions of ordinances specifying rates has been sustained by our courts in a long line of cases. The company is being paid for all water supplied to the schools in the other municipalities served by it in accordance with the rates fixed by the Board.

To countenance the furnishing of water free by the water company to the Somers Point Board of Education would involve a discrimination in violation of the statute. *In re charge for water supplied to Somers Point Public Schools by Atlantic County Water Company*.....p. 360

It appears that on December 31st the stock of the Boonton Electric Company will have a value of approximately \$24,000, provided no distribution of surplus is made before that date. If, at the time of acquisition, the stock of the Boonton Company has a value of not less than \$24,000, approval will be given to the issuance of this amount of stock by the Morris and Somerset Electric Company for the purpose of acquiring the entire outstanding capital stock of the Boonton Electric Company. It appears that on December 31st the stock of the Boonton Electric Company will have a value of approximately \$24,000, provided no distribution of surplus is made before that date. If, at the time of acquisition, the stock of the Boonton Company has a value of not less than \$24,000, approval will be given to the issuance of this amount of stock by the Morris and Somerset Electric Company for the purpose of acquiring the entire outstanding capital stock of the Boonton Electric Company. There must be approved by the Board a general mortgage securing the payment of the additional two per cent. interest on a proposed issue of first mortgage bonds before approval can be given to the issuance of the latter. An agreement of merger and consolidation must be submitted before a petition asking for approval of such merger and consolidation is granted. *Application of the Morris and Somerset Electric Company for approval of the issuance of \$450,000 first mortgage bonds, the acquisition of the capital stock of the Boonton Electric Company and the merger and consolidation of the latter with the petitioner*....p. 379

It appears that the petitioner is operating three buses which cost \$13,441.63. The issuance of stock to the amount of the purchase price seems to be reasonable. The Board is not satisfied that so large an amount as \$2,000 is necessary to provide a fund for emergency purposes or as working capital. \$1,000 is allowed for this purpose. Upon condition that not less than two and one-quarter per cent. of the value new of the buses purchased be set aside monthly out of earnings as a depreciation account, approval is given to the issuance of capital stock to the par value of \$14,500. Approval of the issuance of \$5,000 additional stock will be given, if and when the legal requirements in connection with the operation of a fourth bus are fully complied with. *Application of Butler-Newark Bus Line, Inc., for approval of issue of \$20,000 capital stock* .....p. 386

#### SERVICE—AS AFFECTING RATES.

Gas company allowed to increase rates conditional upon improvements in service. *Wildwood Gas Company—In re service and in re rates* .....p. 8

In fixing a schedule of rates to be charged it is required that in a part of the territory served, where the service is admittedly deficient and an order of the Board requiring improvements has not been complied with, the rate charged shall be ten cents per thousand cubic feet less than in other parts of the territory. *Application of the New Jersey Gas Company for further increase in rates*.....p. 30

It appearing that the service rendered by the petitioner has been improved, consideration is given to its application for approval of increased rates. *Cape May Illuminating Company—Compliance with inspector's recommendations with respect to improvement in service and application for increased rates* .....p. 112

An electric railway is allowed a higher rate than a competing line, it appearing that better service is provided. *Proposed increase in rates by the New Jersey and Pennsylvania Traction Company*....p. 244

In view of an agreement between a water company and its customers that increased rates might be charged, provided certain improvements were made in the company's plant, increased rates were authorized to become effective following completion of the improvements agreed upon. *Application of the Blackwood Water Company for increase in rates* .....p. 343

The company should be required to make the improvements to its plant and system requisite in the proper performance of its public duty, and in order that this may be accomplished, the proposed rate increases must be made effective so that the company will be in a position to finance the needed improvements. On a number of occasions the Board has approved certain increases in rates on condition that certain improvements were to be completed before the increased rates became effective. Difficulties have arisen in financing such improvements prior to the stabilizing of the company's financial condition. The Board will therefore allow the rates to become effective at an early date and will require the company to proceed with the work of installing the necessary improvements with a view to having them completed within eight months after the effective date of this order. *Borough of Barrington vs. New Jersey Water Service Company—In re inadequate service. Investigation as to whether the New Jersey Water Service Company supplies safe, adequate and proper service. Application of the New Jersey Water Service Company for approval of increased rates*.....p. 389

#### SERVICE—ELECTRIC COMPANIES.

Standardization of equipment in the business of furnishing electrical current is highly desirable. The equipment through which the petitioner asks for service differs in a number of respects from the specifications of the respondent. It does not appear that the specifications complained of prevent the petitioner from securing in the open market at a reasonable price a device or equipment which will meet the respondent's requirement. The Board holds that the refusal

of the respondent to supply current through the appliances furnished by the petitioner is not unreasonable. *Petition of the Electric Conduits Company vs. Public Service Electric Company for service connection* .....p. 134

#### SERVICE—GAS COMPANIES.

That the plant capacity of the applicant should be increased by the addition of boiler capacity and connections enabling it to generate sufficient gas to supply its customers for the ensuing year. That it should reinforce the mains now known to be defective, especially on Roberts Avenue, where a two-inch main is now installed. This should be replaced by a four-inch main and it should promptly meter all applicants for service along its existing mains. *Wildwood Gas Company—In re service and in re rates* .....p. 8

The Board repeats what was said by the former Board in 1920 after an exhaustive investigation made by it at that time that the testimony shows that the present rate of consumption of gas oil and the conservation of the fuel supply made a change in the calorific standard at that time desirable. The conditions referred to by the Board at that time continue and will continue in the judgment of this Board. The reasons given by the Board in 1920 for the fixing of the calorific standard at 525 B. t. u. are as applicable to-day as they were a year ago. *Application of the City of Newark for a change in the standard for gas* .....p. 334

#### SERVICE—RAILROAD COMPANIES. See RAILROADS—STATIONS.

#### SERVICE—STREET RAILWAYS.

Application is made by a street railway company to abandon part of its line. In view of the inability of the company to earn anything like a fair return upon the property involved; of the request of the State Highway Commission that the track be removed so it may improve the street as part of the State Highway System, and the request of the City Commission that the Board consent to the removal, the Board holds that the advantages accruing to the community as a whole from the removal of the tracks and abandonment of the franchise outweigh the objections of residents opposing the removal, and that the consent should be granted. *In the matter of proposed abandonment by Millville Traction Company of its franchise on South Second Street, Millville* .....p. 4

Consent is given to a street railway company to abandon service and remove tracks partly on a private right of way and partly on a public highway where the track runs to an amusement park no longer used; the consent to the removal of the track from the public highway to be given upon the municipality consenting thereto. With respect to another portion of the track running for a distance of ten miles between different municipalities the Board, notwithstanding the company's assertion that the portion of the line in question is not profitable, will not grant the application for removal at least until the attitude of the municipalities is ascertained and evi-

dence thereof is submitted to the Board. Mere failure to earn a proper return on a line which is part of a system is not sufficient ground for its abandonment. *In the matter of the abandonment of portion of the line and removal of tracks of the Bridgeton and Millville Traction Company* .....p. 6

Complaint is made of a change by the Public Service Railway Company of routing of cars in Jersey City, resulting in charge for transfer. Held: If the company desires, in the interest of economy, to stop its Belt Line cars at the Summit Avenue Tube Station between 1:00 A. M. and 5:00 A. M. it may do so; but only on condition that it grant a free transfer to each passenger desiring to go south beyond the Tube Station to any other point on the line known as the Belt Line, and that it grant an additional transfer to such passenger upon payment of the regular transfer charge to the Montgomery and other lines at the transfer points, according to the practice in existence in that respect upon the said Belt Line prior to change complained of. *E. A. Ransom, Jr., vs. Public Service Railway Company* .....p. 355

Complaint is made of a change by the Public Service Railway Company of routing of cars on its West Hoboken Line resulting in a charge for transfer. Held: The company should be permitted to make the change, but only upon condition that it will grant free transfers to passengers desiring to transfer for points beyond Courtlandt Street on such cars of other lines of the company as proceed north of that street on Summit Avenue. *Town of West Hoboken vs. Public Service Railway Company*.....p. 358

**SERVICE—WATER COMPANIES. See also METERS AND EXTENSIONS OF FACILITIES.**

The complainant denies the right of the respondent to charge for water supplied because of an ordinance requiring the company to furnish water free to the public schools. The power of the Board to fix rates despite the provisions of ordinances specifying rates has been sustained by our courts in a long line of cases. The company is being paid for all water supplied to the schools in the other municipalities served by it in accordance with the rates fixed by the Board. To countenance the furnishing of water free by the water company to the Somers Point Board of Education would involve a discrimination in violation of the statute. *In re charge for water supplied to Somers Point Public Schools by Atlantic County Water Company* .....p. 360

The company should be required to make the improvements to its plant and system requisite in the proper performance of its public duty, and in order that this may be accomplished, the proposed rate increases must be made effective so that the company will be in a position to finance the needed improvements. On a number of occasions the Board has approved certain increases in rates on condition that certain improvements were to be completed before the increased

rates became effective. Difficulties have arisen in financing such improvements prior to the stabilizing of the company's financial condition. The Board will therefore allow the rates to become effective at an early date and will require the company to proceed with the work of installing the necessary improvements with a view to having them completed within eight months after the effective date of this order. *Borough of Barrington vs. New Jersey Water Service Company—In re inadequate service*.....p. 389

**STREET RAILWAYS.** See RATES, SERVICE, TAXES.

**TAXES—COMPROMISE AND SETTLEMENT OF.**

The Board is asked to compromise and settle taxes assessed under misapprehension on property not taxable as railroad property, the time for appeal to the State Board of Assessors having passed. The Board is authorized by statute to entertain such application and "makes such investigation as may be necessary and determine whether it is in the public interest that there should be a compromise and settlement of such arrears of taxes \* \* \*." The Board construes the words "in the public interest" as being synonymous with the words "in the interest of justice." It certainly is as much in the interest of the public that utilities should not be required to pay more than is just as it is in the public interest to require that they should not receive more than is just. The Board reports that taxes assessed \$7,000 for the year 1920 should be compromised in the amount of \$5,000. *Application of the Trenton, Lawrenceville and Princeton Railroad Company and Trenton, Lawrenceville and Princeton Extension Railroad Company for a compromise and settlement of taxes* .....p. 462

**VALUATION.** See also GOING VALUE.

Of the total of \$182,150 fixed as the value of the property of a gas company for a rate base it is held that \$13,315 should be assigned to street lighting service, \$135,437 to the service of domestic consumers and \$33,398 to the service of another gas company, which sells gas bought in bulk from the company under consideration. *Application of the Ocean County Gas Company for further increase in rates*....p. 16

In determining the rates to be charged by a gas company the value of the tangible property as a basis for rates is taken as \$1,192,731. To this \$115,395 is added for intangible fixed capital and \$65,400 equal to five per cent. of the sum so obtained is added for working capital. The total amounts to \$1,373,500. *Application of the New Jersey Gas Company for further increase in rates*.....p. 30

In the absence of a valuation and of other elements which should be considered in a rate case an application for an emergency increase in rates is denied, it not being apparent that there is an urgent necessity for the increase to provide service. *In the matter of proposed increase in rates by the Ocean City Water Company*.....p. 78

In determining the value of the property of a street railway company in a rate proceeding, the properties of a number of companies owned or controlled by the street railway, but not used for street railway purposes, are excluded. Amounts paid by the government for construction work during the war are excluded. Following the rule laid down by the United States Supreme Court in the Minnesota rate cases, the Board holds that the reproduction value of lands to be considered as an element in determining the fair rate-making value of a public utility property is that based upon the value of adjacent similar lands, without increments, for conjectural damages, acquisition or other incidental costs. Items purchased far in advance of their need, or remaining in the hands of the company years after their usefulness has departed, cannot be included in an appraisal based upon a consistent theory. No finding is made as to a specific amount to be allowed for promotion expenses, but consideration is given to these in determining development cost as going value. The Board finds and determines that all amounts claimed for commissions and discounts should be excluded in determining fair value, and that due consideration will be given to these claims in determining the fair rate of return. Consideration is given to superseded property in determining a proper allowance for development expenses or going value. In the Passaic gas case, decided by this Board December 26, 1912, it was said: "To obtain present value it becomes necessary to deduct from the estimated cost to reproduce new the accrued depreciation." In dealing with accrued depreciation the Board follows the rule laid down in the Passaic gas case, which it understands to be in accordance with the rule laid down by the United States Supreme Court. From all the evidence the Board finds and determines that there should be deducted for accrued depreciation from costs new of all the street railway properties other than lands \$13,500,000. In fixing the value of this property current prices or the appreciated value will be considered. How much weight should be attached to present-day prices is a question that cannot be determined by any hard and fast rule. Certainly, while sufficient consideration must be given them, it would manifestly be unjust to make them the sole test of fair value. Appraisals made following the theory of cost of reproduction new necessarily cover appreciation to the time of the appraisal. In this record appraisals on pre-war basis reflect the appreciation to about 1912, excepting lands which are appraised at present-day prices; therefore all appreciation, if any, in lands would be taken care of. Another important recognition of present-day prices results from the fact that the additions made to this property since January 1, 1916, have been included at the actual full wartime cost. Complying with the rule laid down by the United States Supreme Court, and after carefully considering all the evidence as to the general upward trend of prices, and also giving due consideration to present-day prices, the Board finds and determines that an allowance for appreciation is reasonably represented by \$12,000,000. In making up the value of the property of a utility company allowance must be made for working capital. The Board finds and determines that working capital is needed by the company

for two purposes: 1st. Because of investment in materials and supplies. 2d. To cover the amounts needed in advance to meet charges for insurance, licenses and other similar items in the aggregate. One and one-half million dollars is held to be amply sufficient for these purposes. After considering all the evidence in this case relating to the value of the properties of the Public Service Railway Company, the historical cost of reproduction new, accrued depreciation, appreciation, including all overheads, going value, contingencies, cash working capital, materials and supplies and all other elements of value, tangible and intangible, and having considered the company as a going concern with attached business, the Board finds and determines the fair value for rate-making purposes to be \$82,000,000. *In the matter of the investigation of the reasonableness of the rates of the Public Service Railway Company*.....p. 140

On petition of the predecessor to the existing company for approval of an increase in rates the value of its property was fixed at \$250,000 on the basis of reproduction cost new, less depreciation. The property was sold to a committee representing the bondholders at public sale for \$60,000; the par value of the bonds was \$100,000; a claim is made of additional costs and loss of interest, making the cost to the bondholders \$125,000. This sum, by stipulation, is taken as the basis for rates in this proceeding. *Application of the Pleasantville Gas Company for further increase in rates*.....p. 236

The value of this property for the purpose of fixing rates from the previous determinations of the Board, plus additions at actual cost, and after deduction of depreciation, is \$368,000. The increase in rates proposed by the company is estimated to produce a net income of about \$27,000, which is a net return slightly over 7 per cent. on the value determined above. If the additions to property above set forth and absolutely needed in order that the company would be in a position to furnish safe, adequate and proper service to its customers were now in place, the value upon which present rates should be based is slightly upwards of \$400,000, and the anticipated net return would be about 6.7 per cent. on this latter figure. *Borough of Barrington vs. New Jersey Water Service Company—In re inadequate service; Investigation as to whether the New Jersey Water Service Company supplies safe, adequate and proper service—In re service connections; In the matter of the application of the New Jersey Water Service Company for approval of increased rates* .....p. 389

In applying for approval of increased rates a water company estimates the value new of its property at present-day prices as \$415,724. The amount of \$106,916 is deducted for accrued depreciation leaving a present value of \$308,808. The value new based on pre-war prices for property acquired prior to 1916, plus additions, since at the actual prices paid therefor is \$315,907. From this \$29,400 is deducted because of a thirty-inch main for which it is conceded a twenty-inch main might be substituted, leaving \$286,507.

If to the pre-war value allowances should be added for structural overheads, going value and appreciation in consideration of excess of present-day prices over pre-war prices and deduction made for accrued depreciation, the total value of the property would not be less than the \$308,808 claimed by the company as present value. This is accepted as the base on which rates should be allowed. *In the matter of filing by Somerville Water Company of an increased water rate schedule* .....p. 412

The fair value of the company's property in the Passaic Division is placed at \$6,500,000, on which a return of eight per cent. is allowed. *In the matter of the rates charged for gas by the Public Service Gas Company* .....p. 465

**WATER COMPANIES.** *See* RATES—WATER COMPANIES AND SERVICE—WATER COMPANIES.

**WORKING CAPITAL.**

In determining the rates to be charged by a gas company the value of the tangible property as a basis for rates is taken as \$1,192,731. To this \$115,395 is added for intangible fixed capital and \$65,400 equal to five per cent. of the sum so obtained is added for working capital. The total amounts to \$1,373,500. *Application of the New Jersey Gas Company for further increase in rates*.....p. 30

In making up the value of the property of a utility company allowance must be made for working capital. The Board finds and determines that working capital is needed by the company for two purposes: 1st. Because of investment in materials and supplies. 2d. To cover the amounts needed in advance to meet charges for insurance, licenses and other similar items in the aggregate. One and one-half million dollars is held to be amply sufficient for these purposes. *In the matter of the investigation of the reasonableness of the rates of the Public Service Railway Company*.....p. 140

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